

Picard v. Igoin

Laurence Apfelbaum 3-27-14

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

Adv.Pro.No.08-01789 (SMB)
SIPA LIQUIDATION
(Substantively
Consolidated)

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC

Defendant.

In re:

BERNARD L. MADOFF,
Debtor.

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff
Investment Securities LLC,

Plaintiff,

v.
ESTATE (SUCCESSION) OF DORIS IGOIN,
ET AL,

Defendants.

VIDEOTAPED DEPOSITION UPON ORAL EXAMINATION
of MRS LAURENCE APFELBAUM
ON THURSDAY, MARCH 27, 2014

TAKEN AT:
ARTUS WISE PARTNERS,
154, BOULEVARD HAUSSMANN,
PARIS 75008,
FRANCE
BEFORE SUSAN A. MCINTYRE, CSR, RPR, CRR, MBIVR

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2000, Bates No. MADTSS00233285

Exhibit 22 Facsimile Transmittal, dated 158
March 30, 2000, Bates Nos.
MADTSS00258269 - MADTSS00258273

Exhibit 23 Letter to Mr Airault, dated May 17, 178
1995, Bates No. ESQU-BR00007822

Exhibit 24 Multi-paged document, not Bates 181
numbered

Exhibit 25 Multi-page document of a French 185
document with a certified
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Exhibit 26 Multi-paged document, Bates Nos. 193
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Exhibit 27 Multi-paged document, Bates Nos. 198
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Exhibit 29 Multi-paged document, Bates Nos. 216
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Exhibit 30 Multi-paged document, Bates Nos. 222
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1 Thursday, 27 March 2014

2 THE VIDEOGRAPHER: Good morning.

3 This is the continuation of the
4 deposition of Laurence Apfelbaum, day two, taken
5 by the plaintiff in the matter of Securities
6 Investor Protection Corporation versus Bernard L.
7 Madoff Investment Securities LLC, case filed in
8 the United States Bankruptcy Court, Southern
9 District of New York. This deposition is being
10 held at Artus Wise Partners, 154 Boulevard
11 Haussmann, Paris, France, on March 27, 2014.

12 My name is Luis Guisbert from
13 Bendish Reporting and I am the video specialist.
14 The court reporter today is Susan McIntyre, also
15 from Bendish Reporting.

16 We are going on the record at 9:44.
17 Will all counsel please introduce yourselves for
18 the record.

19 MS WANG: Ona Wang, Baker Hostetler,
20 for the plaintiff. Also present from Baker
21 Hostetler, David McMillan and Natacha Carbajal.

22 MS ESKENAZI: Delphine Eskenazi.

23 MR COOPERMAN: Jonathan Cooperman,
24 Kelley Drye & Warren, for the witness and the
25 defendant.

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1 MR QUINT: Bruno Quint, French
2 attorney for Mrs Apfelbaum.

3 MS SELTZER: Ambre Seltzer, attorney
4 for Mrs Apfelbaum.

5 MS SWARTZ: Salli Swartz,
6 duly-appointed Commissioner for the purpose of
7 this deposition.

8 We are now on the record officially.

9 LAURENCE APFELBAUM,
10 (through the interpreter, Anne Lebreton)
11 having been previously sworn,
12 was examined and testified as follows:

13 EXAMINED

14 BY MS WANG:

15 Q. Good morning, Mrs Apfelbaum. I just
16 wanted to get a little bit of background and
17 history.

18 Now, university education in France
19 is free or do your parents or somebody have to pay
20 tuition?

21 A. At university they're free.

22 Q. What about before university, at the
23 preparatory schools, and also for advanced
24 degrees?

25 MR COOPERMAN: Are you talking also

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1 about the time she went to school or now? It
2 could change.

3 MS WANG: At the time she went to
4 school.

5 THE WITNESS: I went to a state
6 lycée, secondary school, which was free. Then
7 I went to Sorbonne, Paris, which also was free.
8 After that I went to the School of Oriental
9 Studies, which is also free.

10 BY MS WANG:

11 Q. What about for your psychology
12 degrees, was that education also free?

13 A. The psychology degree was part of
14 what I did at university and was free, but after
15 that, to become a psychiatrist [sic], I had to do
16 a psychoanalysis myself and, therefore, paid for
17 it. What I did as regards my personal training,
18 including my supervisions with the Association of
19 French Psychoanalysts --

20 THE INTERPRETER: Not
21 "psychiatrists," sorry, for the translation.

22 THE WITNESS: -- all that I had to
23 pay for myself.

24 BY MS WANG:

25 Q. When you say 'all that you had to

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1 pay for yourself,' was it your funds or your
2 parents' funds that paid for your psychoanalyst
3 training?

4 MR COOPERMAN: Objection.

5 THE WITNESS: I started to work
6 quite young and earn my money, and my
7 psychoanalytic training I paid for myself.

8 MR COOPERMAN: (To the interpreter)
9 Before you start, would you like to see this?
10 This is the LiveNote. Would it help you?

11 THE INTERPRETER: No --

12 MR COOPERMAN: Okay. Because there
13 are translators who have requested for it.

14 THE INTERPRETER: -- reading and
15 listening...

16 MR QUINT: As a matter of fact, one
17 answer before, there is a mistake. She said the
18 "lycée," which is a French word, you wrote "Lee
19 say." This is a high school in France.

20 BY MS WANG:

21 Q. Did you live with your parents until
22 the time you got married or did you live alone for
23 some period of time before you got married?

24 A. I lived with my parents until about
25 the age of 18 or 19, then I lived in a flat share.

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1 After that I lived alone until I got married.

2 Q. During the time that you lived in
3 the flat share and then living alone, who paid for
4 your living expenses?

5 A. I worked. As I said, I started
6 working very young and had various jobs; but it
7 still wasn't quite enough, so my parents helped
8 me.

9 Q. When you said you started working
10 very young, at what age did you start working and
11 making your own money?

12 A. Well, "very" young, maybe not, but
13 it was very young for someone who was engaged in
14 the university studies. I got my baccalaureate in
15 '66 and I started to work in '69, when I was 20
16 and while I was carrying on with my studies.

17 Q. What did you do while you were --
18 what did you do for work while you were carrying
19 on with your studies?

20 A. I had jobs as a psychologist in the
21 Bilingual Active School, in the Dialysis Center of
22 the Foundation of France, another job as a
23 psychologist in a medical and teaching center,
24 then I also taught at university. I think
25 I forgot to tell you yesterday, I had some

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1 classes. I was a psychologist also at Bichat,
2 which is a hospital. So sometimes I held three of
3 these positions at the same time, sometimes two.
4 And this went on until I opened my practice as a
5 psychoanalyst. That started officially in '76,
6 but in fact it really started in '75 when I wasn't
7 yet a member of the Association of Psychoanalysts
8 of France but I still had some paid jobs to do,
9 supervisions; that means to have some patients.

10 To be officially a psychoanalyst you
11 have to be received by the Association of
12 Psychoanalysts, and then you can do it officially.
13 Before that, when I had these patients under
14 supervision, I was allowed to do it because I had
15 my Diploma of Psychologists.

16 Q. It is like young lawyers starting
17 out, you pass the Bar and you get admitted.

18 You said earlier that when you were
19 working various jobs it still wasn't quite enough
20 so your parents helped you. Did there come a time
21 when you did become financially independent?

22 A. No, I can't remember.

23 Q. Was it before you opened your own
24 psychoanalyst practice?

25 MR COOPERMAN: Objection.

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1 THE WITNESS: I can't remember.

2 BY MS WANG:

3 Q. When you said that your parents were
4 helping you financially, what were they helping
5 you with?

6 A. They bought a flat for me so
7 I didn't have to pay any rent.

8 Q. Is this after you had flat share?

9 A. Yes.

10 Q. How long did you live in the flat
11 that your parents bought for you?

12 A. Well, it's really hard to remember
13 this sort of thing. I mean I'm 65 now and I was
14 20 then. I mean all my youth. The years get
15 mixed up, I can't answer that.

16 Q. Were you still living in that flat
17 when you got married?

18 A. Yes.

19 Q. And you got married in 1981?

20 A. Yes.

21 Q. After you got married did you
22 continue to live in the flat?

23 A. No.

24 Q. Did you and your husband buy a
25 separate flat together? Did you move in with him?

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1 Or something else?

2 A. I moved in with him in his rented
3 flat, which actually was very close to where we
4 are now, and after that I sold my flat and
5 we bought another one which we put in my name
6 since most of the capital came from me.

7 Q. Under what marital regime were you
8 married?

9 MR COOPERMAN: Objection.

10 What do you mean by that? Religious
11 or --

12 MS ESKENAZI: (Inaudible)

13 MR QUINT: It is a legal status. It
14 is whether the assets are shared or --

15 MS ESKENAZI: No, it is whether she
16 had a prenuptial agreement.

17 MR COOPERMAN: If you understand the
18 question.

19 THE WITNESS: Yes.

20 We married under separation of
21 assets.

22 MS ESKENAZI: [To the interpreter]
23 Separation of assets "regime."

24 BY MS WANG:

25 Q. Now, you said that when you bought

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1 the flat with your husband, which you put in your
2 name since most of the capital came from you, what
3 did you mean by that?

4 A. It was mainly my funds, because
5 I sold that flat that I had. He had some savings
6 which he put in the joint flat that was under my
7 name. I mean he had a bit of savings, but apart
8 from that he also had a flat in the mountains. He
9 had other things.

10 Q. Did your husband's children from his
11 previous marriage live with you at the time that
12 you got married?

13 A. No. His last daughter was five at
14 the time and she came every second weekend, but
15 she didn't live with us.

16 Q. And the other children were older
17 and didn't live with you at all?

18 A. They were teenagers and they went to
19 live in Israel, they didn't live in France.

20 Q. Who did they live with in Israel?

21 A. Their mother, who had moved to
22 Israel.

23 Q. Was your husband responsible for any
24 financial support for his children, his older
25 children from his previous marriage, or for their

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1 mother?

2 [Translation into French]

3 [Discussion in French]

4 [Further translation in French]

5 MS ESKENAZI: [To Ms Wang] I think
6 you asked (inaudible).

7 MS WANG: Either whether he was
8 required to or whether he chose to.

9 THE INTERPRETER: Do you mean on a
10 regular basis or do you mean a lump sum?

11 MS WANG: Either.

12 [Further translation in French]

13 THE WITNESS: So, yes, he did
14 support his wife. In fact he still does. I know
15 that he still has a bank transfer on a regular
16 basis to her.

17 Now, let me remind you that my
18 husband was professor of medicine, teacher at the
19 universities, head of a laboratory, and as such he
20 had quite a good level of income, so we were okay
21 and I really didn't need to look into what was
22 actually going on.

23 I know that for his daughter Deborah
24 he paid some support until the end of her studies,
25 which is a pretty standard thing to do, and the

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1 mother, actually, was doing all right as well.
2 Deborah is the daughter of another mother who
3 lives in France and is a doctor, is based in
4 Paris.

5 BY MS WANG:

6 Q. I was going to ask how, if the
7 mother had moved to Israel, how Deborah was
8 visiting every other weekend. Okay.

9 So none of your funds went to
10 support Marian's children or his former wives or
11 anything like that, did they?

12 A. No. No. He had enough to manage
13 himself; but, on the other hand, we had a joint
14 account and we both drew what we wanted to and
15 we didn't look at what the other one was doing and
16 get into petty accounts.

17 Q. When you filed tax returns with your
18 husband, did you file jointly?

19 MR COOPERMAN: Objection.

20 THE WITNESS: I told you yesterday,
21 it's done by family in France.

22 BY MS WANG:

23 Q. In the US you can choose whether you
24 file by household or you file separately, so that
25 was my question.

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1 A. No, we had to do it jointly.

2 Q. Did there ever come a time when
3 you moved back into your parents' house or moved
4 back in with your mother?

5 A. No.

6 Q. So any money that -- for basic
7 living expenses and spending money for you or for
8 Emilie, did that come from your joint account or
9 did it come from somewhere else?

10 MR COOPERMAN: Objection.

11 THE WITNESS: Could you rephrase?

12 BY MS WANG:

13 Q. For basic living expenses and
14 spending money that you used for yourself or for
15 your daughter Emilie, did you use money from your
16 joint account with your husband or did you use --
17 did you draw it from a different account?

18 MR COOPERMAN: Objection.

19 BY MS WANG:

20 Q. You can answer.

21 A. Okay. So all the money we received
22 -- or I received -- goes to the joint account,
23 that's why it's all there. We acted as a family.
24 But I do also have my professional account and
25 that has to be kept separately and in a different

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1 way, with complete accounting. So sometimes, if
2 I felt I needed some spending money, I took some
3 from this professional account, and it is all
4 accounted for since this is under a complete
5 accounting system. This has to be, because a
6 professional account of this type legally has to
7 be properly kept and filed separately in the
8 income statement, income return.

9 MR COOPERMAN: Ona, I've been
10 letting you go on this for a while. None of this
11 goes to jurisdiction at all and I think, just
12 looking at the witness, these are intrusive
13 questions on very personal matters which you
14 wouldn't want your questions about yourself to be
15 asked about, so -- you know, just like I wouldn't.
16 So, you know, I'll let you go a couple more
17 questions on that, but this has nothing to do with
18 jurisdiction, unless you can tell me otherwise.

19 BY MS WANG:

20 Q. When you got withdrawals or
21 redemptions from your BLMIS account, they went
22 into the joint account, didn't they?

23 THE INTERPRETER: Withdrawals from
24 where?

25 MS WANG: BLMIS account.

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1 MR COOPERMAN: Objection.

2 THE WITNESS: Yes. Yes, I did such
3 withdrawals and placed them on the joint account
4 in order to pay for my tax. My taxes were very
5 high as regards the capital gain tax on my
6 portfolio. That part of my taxation was higher
7 than the taxes on my professional income, and
8 that's why I needed to make those withdrawals.
9 And, naturally, I placed them on the joint account
10 since we were a household and, as such, had a
11 household tax return to do.

12 BY MS WANG:

13 Q. When you made these withdrawals for
14 taxes, did you request them specifically from
15 BLMIS?

16 MR COOPERMAN: Objection.

17 THE WITNESS: That was answered
18 yesterday.

19 MR COOPERMAN: That's why
20 I objected.

21 BY MS WANG:

22 Q. Well, can you just answer it again
23 since I don't have the transcript in front of me
24 right now?

25 MR COOPERMAN: Objection.

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1 THE WITNESS: Yes. As I said
2 yesterday, I did write Mr de Pascali a letter
3 requesting such a withdrawal, I think it was '96
4 or '99. In fact twice a year I would -- when
5 I got my tax figures I sent them to him in a
6 letter so that the appropriate withdrawal could be
7 made.

8 I would like to say something about
9 my statement of yesterday. I wonder whether
10 I caused confusion in the way you reformulated
11 what I said, I'm not quite sure.

12 When you summed up about the selling
13 before maturity of the securities -- the Treasury
14 Bills, sorry -- what happened is I regularly
15 checked my Treasury Bills and when the date, the
16 due date, was coming up, if nothing had happened
17 I got a bit worried and called Mr de Pascali.
18 Because his activities tended to take place at a
19 rather uncontrolled rhythm. And if he hadn't done
20 anything and I felt it was time, well, I took
21 action. I don't know how many times it happened.
22 I remember being worried, but not how many times
23 I had to call him.

24 BY MS WANG:

25 Q. So just so I understand, the

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1 rollover of the Treasury Bills, you know, making
2 sure that they were sold before the maturity date,
3 was something that happened on a fairly regular
4 basis but that's separate from requesting certain
5 withdrawals to cover tax payments, is that right?

6 MR COOPERMAN: Objection.

7 [Mr Quint speaks to the witness in
8 French]

9 THE WITNESS: Correct. I had to be
10 in touch with him twice a year for redeeming some
11 bills in order to pay my tax, that's one thing.

12 Then, as regards the rollover of the
13 securities, sometimes he did it and I didn't need
14 to worry and sometimes I had to call him, but
15 I can't say whether I had to call him about this.
16 Maybe it happened twice in the given year and then
17 it didn't happen for several years. All
18 I remember is my concern about it. And sometimes
19 I didn't have to call on him. It was only when he
20 left it to the last week, and then I did call him.
21 I didn't call him on a regular basis.

22 BY MS WANG:

23 Q. Now, when you said you had to be in
24 touch with him twice a year for redeeming Treasury
25 Bills in order to pay tax, did that happen at a

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1 regular time of year or a regular month each year?

2 A. For the tax on fortune, ISF, that's
3 very regular, it's June. For the income tax the
4 dates fluctuate much more. As you've seen,
5 sometimes they committed an error (like we saw the
6 fax of 1996), and sometimes they're late. So the
7 moment when they send the appeal to pay varies, in
8 fact.

9 Q. What do you mean when you said "the
10 moment when they send the appeal"? Is that a tax
11 bill?

12 A. They call up the payment and --
13 It's quite complicated, the French
14 tax system. There are two parts: there's the
15 income tax, for which they send you like an
16 invoice --

17 THE INTERPRETER: And that's why
18 I said "appeal," which might not be the right
19 word.

20 MS WANG: So "appeal" meaning
21 "invoice"?

22 MR QUINT: Notice to pay.

23 THE INTERPRETER: Notice to pay,
24 thank you.

25 THE WITNESS: Then they also have

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1 another part of the income tax which is called
2 CSG, which comes at a different moment.

3 BY MS WANG:

4 Q. What is the CSG?

5 MR COOPERMAN: Objection.

6 THE WITNESS: It stands for
7 "generalized social contribution."

8 BY MS WANG:

9 Q. Both the generalized social
10 contribution and the income tax are supposed to be
11 paid once a year?

12 MR COOPERMAN: Objection.

13 MS WANG: I'm going to ask the court
14 reporter to mark a single-paged document as
15 Exhibit 21. It is a single page bearing Bates No.
16 MADTSS00233285.

17 (Exhibit No. 21 marked for
18 identification.)

19 BY MS WANG:

20 Q. Mrs Apfelbaum, please take a look at
21 Exhibit 21. When you are finished, can you tell
22 me what it is?

23 A. Well, I can't remember this one in
24 particular but it's an example of the faxes that
25 were exchanged when I asked to do some

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1 withdrawals.

2 Q. Do you see where it says 1,942,980
3 USD due you via wire for your account for value
4 6/1/00? Is it your understanding that that was
5 approximately \$1.9 million that would have been
6 wired to your account on or around June 1, 2000?

7 A. Yes.

8 Q. Then do you see the next section
9 below that, where it says:

10 "We sold for Mom's account 1,500,000
11 principal amount U.S. Treasury Bills due 6/29/00?"

12 Is it your understanding that "Mom's
13 account" means your mother's account?

14 A. Yes.

15 Q. And that 1.494 -- sorry -- and that
16 \$1,494,600 was then wired to your mother's bank
17 account around June 1, 2000?

18 A. Yes. My mother didn't have a fax
19 machine, so they faxed it to me and I passed it on
20 to her.

21 Q. So you were not at this point in
22 time managing your mother's account or anything
23 like that?

24 A. No, I just passed the information to
25 her.

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1 Q. If your mother needed a withdrawal
2 or a redemption, how would that be communicated if
3 she didn't have a fax?

4 MR COOPERMAN: Objection.

5 THE WITNESS: I don't know.

6 BY MS WANG:

7 Q. So you did not, for example, send a
8 fax on your mother's behalf?

9 A. No. I didn't. I don't think so.

10 BY MS WANG:

11 Q. And you didn't, for example, make a
12 phone call to Frank de Pascali and Bernard Madoff
13 on your mother's behalf for transactions or
14 redemptions in her BLMIS account, is that right?

15 A. No.

16 MS WANG: I'm going to ask the
17 reporter to mark as Exhibit 22 a multi-paged
18 document bearing the Bates numbers MADTSS00258269
19 through MADTSS00258273.

20 (Exhibit No. 22 marked for
21 identification.)

22 BY MS WANG:

23 Q. Please take your time to look
24 through Exhibit 22. Is Exhibit 22 another example
25 of the faxes that Frank de Pascali would send you

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1 concerning transactions of yours, your daughter's
2 and your mother's BLMIS accounts?

3 MR COOPERMAN: Objection.

4 This is a document we have never
5 seen before. Are you representing -- it is
6 unsigned, there's no fax moniker -- are you
7 representing it was actually sent to her?

8 MS WANG: I'm asking if it would be
9 an example of a similar document that would have
10 been sent.

11 MR COOPERMAN: So you are not going
12 to answer my question.

13 (To the witness): You should
14 understand, there's no signature on this page,
15 there's no fax indication here, we've never seen
16 this before, so...

17 THE WITNESS: Well, you'd have to
18 show me an original. It looks like the sort of
19 document that he would send me. But of course
20 with a fax it is hard to get an original. I can't
21 remember any faxes in particular.

22 BY MS WANG:

23 Q. Do you see about halfway down the
24 page, in the section that is titled in bold
25 "Account # 1-FN006," which I'll represent to you

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1 is what BLMIS considered your mother's account, it
2 says: "4,552.50 [dollars] wired to BNP for value
3 3/31/2000"?

4 A. I can see it.

5 Q. Is BNP your mother's account, bank
6 account?

7 MR COOPERMAN: Objection.

8 BY MS WANG:

9 Q. If you know.

10 A. I wouldn't know what happened at
11 that time. I know that at the moment of her
12 passing away, with the notary I had to close an
13 account that she had at the BNP, but I wouldn't be
14 privy to what she did in the past. I would have
15 nothing to do with it. It's the other way around,
16 she had a say in Emilie and my account because she
17 held some rights. Part of her assets concerned
18 some which were mine and Emilie's. That's what
19 we explained yesterday.

20 Q. Now you and your husband, Marian,
21 did not have a joint account at BNP in or around
22 2000, did you?

23 A. No, we banked at Société General.

24 Q. Now, you said your daughter Emilie
25 lives with you now, is that right?

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1 A. Yes.

2 Q. How are her living expenses paid?

3 MR COOPERMAN: Objection.

4 THE WITNESS: She works.

5 BY MS WANG:

6 Q. Do you support her financially at
7 all?

8 MR COOPERMAN: Objection.

9 THE WITNESS: She lives with us, she
10 doesn't have to pay any rent.

11 BY MS WANG:

12 Q. But other costs, incidentals (for
13 example, shopping, eating, any of that), she pays
14 for herself?

15 MR COOPERMAN: No, I'm not going to
16 allow her to answer this because obviously what
17 you are trying to get at is that somehow Madoff
18 money is being used to support her. Madoff money
19 doesn't exist any more. So you are asking in the
20 present; now has nothing to do with jurisdiction.

21 MS WANG: Okay. All right --

22 MR COOPERMAN: Let me say, you are
23 visibly upsetting a witness (who is upset to be
24 here in the first place) on really personal stuff.
25 So unless you can tell me that it relates to

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1 jurisdiction -- explain to me; if it does, I'm
2 reasonable. But I don't see this in any way --
3 I would like to take a break because I would like
4 to talk to the witness who I think is getting
5 upset.

6 MS WANG: Okay, first of all,
7 there's a question pending.

8 MR COOPERMAN: Let her answer the
9 question, if you want, but repeat it, I may not
10 allow her to answer that unless you can tell me
11 how it relates to jurisdiction. I'm not going to
12 allow --

13 I remember the question. Unless you
14 can tell me how living expenses now, in a time
15 when Madoff money doesn't exist, possibly relates
16 to this case, much less jurisdiction, I'm not
17 going to let her answer.

18 MS WANG: Around the time of
19 Albert Igoi's death a significant amount of money
20 was pulled out of BLMIS and put into French
21 Treasury Bills. I think it was on the order of --
22 I don't know if it was 13 million or 30 million.
23 That money was then taken out of Madoff, but it
24 originated with Madoff. I'm trying to get at
25 whether that portion of that inheritance is being

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1 used.

2 MR COOPERMAN: You didn't listen to
3 yesterday because she explained exactly what
4 happened, and I'm not going to say it because
5 you'll accuse me of testifying again. But you
6 didn't listen to her answers. So I'd like to take
7 a break, then you should ask away, she'll give you
8 the exact explanation which she told yesterday,
9 too.

10 MS WANG: There's a question
11 pending. I'll rephrase the question.

12 MR COOPERMAN: I'm not going to let
13 her --

14 MS WANG: No, there's a question
15 pending that I will rephrase to address your
16 objection right now and then maybe we should take
17 a break and you and I should discuss as well.

18 MR COOPERMAN: I'm happy to explain
19 to you off the record, if you like, if that's what
20 you'd want, but I think it is better coming from
21 the witness, so...

22 Can I just ask --

23 (To the witness): Do you feel
24 comfortable now? Are you okay to answer the
25 question where she's getting at or do you want a

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1 break?

2 THE WITNESS: Let's have the
3 question again, I can't remember it.

4 MS WANG: I'm going to rephrase the
5 question, that may address some of your concerns
6 right now, Mr Cooperman.

7 BY MS WANG:

8 Q. As of 2008, did your daughter Emilie
9 live with you?

10 A. That's the rephrased question?

11 Q. I'm rephrasing the question.

12 MR COOPERMAN: She's asking a new
13 question.

14 THE WITNESS: Yes, she did.

15 BY MS WANG:

16 Q. In 2008, what was the source of
17 funds for Emilie's other costs: incidentals,
18 shopping, eating, vacations, any of that?

19 MR COOPERMAN: Objection.

20 (To the witness): You can answer.

21 THE WITNESS: I don't know. I would
22 have to think about it. I could imagine -- no,
23 I can't imagine.

24 MR COOPERMAN: Can we take a break?

25 MS WANG: Sure.

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1 THE VIDEOGRAPHER: Going off the
2 record. The time is 10:48.

3 (Off the record - 10:48 a.m.)

4 (On the record - 11:05 a.m.)

5 THE VIDEOGRAPHER: Going back on the
6 record. The time is 11:05.

7 BY MS WANG:

8 Q. Mrs Apfelbaum, I wanted to go back
9 to an area that we touched upon yesterday, which
10 was the inheritance from your father when your
11 father passed away.

12 Yesterday -- and correct me if I'm
13 wrong -- but your father's will had left a
14 usufruct to your mother and 25% of the estate was
15 to pass to you and to your daughter -- each -- was
16 to pass to you and your daughter Emilie, is that
17 right?

18 A. No. Not quite.

19 Q. Can you refresh my memory what
20 happened?

21 MR COOPERMAN: Objection.

22 THE WITNESS: So, my parents were
23 married under community of assets, therefore 50%
24 of the assets belonged to my mother, the other 50%
25 that had belonged to my father were passed down to

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1 me and my daughter, but my mother kept the
2 usufruct of this second half. So we were given
3 the bare ownership but she still managed
4 everything. That is why I filed an appeal, a
5 challenge --

6 [The witness speaks to the interpreter in
7 French]

8 -- so this is why I had a difference
9 of view with my mother.

10 BY MS WANG:

11 Q. So if you were given bare
12 ownership -- sorry.

13 The usufruct to your mother and the
14 50% --

15 MR COOPERMAN: Just one second.

16 MS WANG: What?

17 MR COOPERMAN: I'm concerned that
18 we type down a portion of an answer which the
19 translator later said she was wrong. "That is why
20 I filed an appeal, a challenge," it says, but
21 I think that was withdrawn to say "That is why
22 I had difference of view with my mother."

23 THE INTERPRETER: Yes.

24 MR COOPERMAN: Right now the
25 transcript has a passage that needs to be

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1 corrected.

2 THE INTERPRETER: The interpreter
3 withdraws that sentence.

4 MS WANG: So let's go back and
5 clarify that.

6 BY MS WANG:

7 Q. So under your father's will then --
8 and this is partly because I don't understand how
9 the property laws in France work -- under your
10 father's will your mother and the community
11 property, I guess, laws, that your mother held
12 ownership to 50% of their joint property anyway,
13 is that right?

14 A. Yes.

15 Q. Then the other 50% that belonged to
16 your father, your father willed half of that to
17 you and half of that to your daughter, is that
18 right?

19 A. Yes.

20 Q. And under your father's will he also
21 gave your mother the usufruct over the assets that
22 you owned, is that right?

23 A. Yes. She had the usufruct of my
24 share and Emilie's share.

25 Q. So practically speaking what does

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1 that mean? Does that mean she actually controlled
2 the assets that were supposed to have passed to
3 you and your daughter?

4 MR COOPERMAN: Objection.

5 THE WITNESS: The problem concerned
6 Emilie's share of the fortune. Because her
7 grandmother, having a right of usufruct, could
8 make withdrawal's on Emilie's account. She did it
9 for Emilie. And it wasn't reasonable. Emilie
10 would twist her grandmother into doing these
11 withdrawals and I felt it was not good and that's
12 why I asked my mother to give up having this
13 usufruct. Because Emilie was escaping my --

14 [The witness speaks to the interpreter in
15 French]

16 Nothing happened. Emilie was an
17 adolescent. And although nothing happened I was
18 worried about this situation.

19 BY MS WANG:

20 Q. So she didn't -- Emilie didn't cause
21 her grandmother to make withdrawals on her account
22 but you were concerned that she could and, because
23 she was an adolescent, she might try to get money
24 that way through her grandmother?

25 A. So, no, nothing happened. Because

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1 I realized, when the will was disclosed, it was a
2 tricky situation, and my husband and I both felt
3 it would be better not to have such a situation,
4 hence the conflict with my mother when I asked her
5 to relinquish this usufruct.

6 MR COOPERMAN: I think we need to
7 correct on the record that it was written down
8 "Emilie 'would' twist her grandmother into doing
9 these things," and I think everyone is agreeing
10 it's "Emilie 'could,' "'could' twist." So that's
11 the translation error.

12 BY MS WANG:

13 Q. Emilie could, but nothing actually
14 happened. You were concerned that she could do
15 it, that was your statement?

16 So the question was Emilie could
17 have done something to take her share of the money
18 through her grandmother, but nothing actually
19 happened, is that right?

20 A. No, it didn't happen, because when
21 they opened the will we realized straightaway that
22 there was a problem. And I asked my mother
23 straightaway to relinquish her usufruct. However,
24 she didn't decide on the spur of the moment. It
25 led to a document being drawn up in front of a

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1 notary, which was a sharing document. If she
2 hadn't agreed to do this, I wouldn't have agreed
3 for the whole succession. So this sharing
4 document, the legal sharing, meant that she
5 relinquished the usufruct and let us decide for
6 Emilie, because we were her tutors. My husband
7 and I had to go, as such, to the judge specialized
8 in tutorship.

9 MR QUIRK: "Guardian."

10 THE INTERPRETER: "Guardian."

11 "Guardian," sorry.

12 MS WANG: Let me --

13 THE INTERPRETER: Please replace it.

14 MS WANG: When you used the word
15 "tutor," you meant "guardian"?

16 THE INTERPRETER: I meant
17 "guardian."

18 MS WANG: So "let us decide for
19 Emilie, because we were her guardians"?

20 THE INTERPRETER: Her guardians, and
21 went to the judge specialized in the matter of
22 guardians.

23 BY MS WANG:

24 Q. Now, getting back to your share of
25 the estate and your inheritance. Your mother also

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1 held a usufruct over your ownership portion, is
2 that right?

3 A. In my father's will, yes.

4 Q. Did that mean you had the ability to
5 control your accounts or did that mean that your
6 mother did or was it something else?

7 MR COOPERMAN: Objection.

8 THE WITNESS: I don't know because
9 it didn't come to happen. It didn't happen for
10 Emilie because I fought against it -- and for me,
11 too.

12 BY MS WANG:

13 Q. Oh, okay. So when you got your
14 mother to waive the usufruct for Emilie, she also
15 waived it for you, is that right?

16 MR COOPERMAN: Objection.

17 THE WITNESS: Oh, yeah, it all
18 happened together. She said: Well, have it then,
19 and she was angry.

20 BY MS WANG:

21 Q. Do you have the documents that Doris
22 had to sign to waive her usufruct?

23 MR COOPERMAN: Objection.

24 THE WITNESS: Yes, I told you, it
25 was a document that was signed at a notary. It is

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1 a legal document.

2 BY MS WANG:

3 Q. Do you still have it?

4 MR COOPERMAN: Objection.

5 THE WITNESS: My notary has it.

6 BY MS WANG:

7 Q. Now, you said your mother was angry
8 when you said you asked her to waive the usufruct.
9 Can you tell me about those conversations with
10 her? What was her -- why was she angry?

11 MR COOPERMAN: Objection.

12 We covered this yesterday.

13 (To the witness) You can answer
14 again.

15 THE WITNESS: Well, my mother was
16 very angry that I wanted to go against the will of
17 my father and she felt it was a sacrilege.

18 BY MS WANG:

19 Q. Now, your father had never discussed
20 the will with you when he was alive or why he had
21 chosen to structure the inheritance that way, did
22 he?

23 MR COOPERMAN: Same objection.

24 THE WITNESS: Not at all. I was
25 flabbergasted. It was very painful that my father

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1 had done something like that. I was very upset
2 that he did it as a father and as a grandfather.

3 MR QUINT: "Without telling me."

4 THE INTERPRETER: "Without telling
5 me."

6 BY MS WANG:

7 Q. Now, after you resolved the issue of
8 usufruct and got your mother to agree to waive it,
9 there were other issues, right, because Emilie was
10 a minor?

11 MR COOPERMAN: Objection.

12 THE WITNESS: Yes. I already told
13 you.

14 BY MS WANG:

15 Q. You said that her inheritance,
16 Emilie's inheritance, had to be overseen by a
17 guardianship judge, is that right?

18 MR COOPERMAN: Objection.

19 THE WITNESS: Yes. Yes, that's
20 legal.

21 MS SELTZER: "It's the law."

22 MR COOPERMAN: It's the law.

23 BY MS WANG:

24 Q. So then my next question was what
25 was the name of the judge?

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1 A. Standish.

2 Q. So who is Maître Airault?

3 A. The notary.

4 Q. And the notary on behalf of your
5 family?

6 A. Yes.

7 Q. Who was it who expressed concern
8 about Emilie's investments and required that half
9 of it be put into French Treasury Bills?

10 MR COOPERMAN: Objection.

11 THE WITNESS: The judge, the
12 guardianship judge, wanted to have written
13 guarantees if we were going to maintain some
14 investment in the US. That's why we asked Madoff
15 to come to Paris, so that he could be part of a
16 discussion and provide some guarantees. And that
17 was because my mother didn't want a total change
18 from my father's investment choices. If Madoff
19 hadn't consented to do that, provide his
20 guarantee, we would have had to invest somewhere
21 else.

22 BY MS WANG:

23 Q. Can you tell me more generally what
24 type -- the concerns of the guardianship judge and
25 was he the only one who expressed concern about

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1 the investments in the United States?

2 MR COOPERMAN: Objection.

3 THE WITNESS: The guardianship judge
4 has, as a role, to protect the guardian's
5 investments and make sure that they are invested
6 safely and in a safe manner.

7 THE INTERPRETER: They call it a
8 good family father's investment, literally, in
9 French, meaning reasonable and safe.

10 THE WITNESS: Therefore, that's his
11 role and he makes sure the capital is well
12 preserved. And every year we have to report to
13 him.

14 BY MS WANG:

15 Q. When you said every year you had to
16 report to him, was that up until Emilie reached
17 the age of majority?

18 MR COOPERMAN: Objection.

19 THE WITNESS: Yes.

20 BY MS WANG:

21 Q. What kind of information did the
22 guardianship judge want in the annual reports?

23 A. He made sure that none of the
24 capital had been lost.

25 ///

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1 BY MS WANG:

2 Q. In what form did you provide this
3 information to the guardianship judge?

4 A. We showed him the results of the
5 account.

6 Q. Did that mean showing him the
7 account statements or did you create another
8 document or did you have somebody at BLMIS create
9 a document or something else?

10 A. I can't remember exactly. I showed
11 the annual statements of her account and I also
12 showed the French Treasury Bills documents.

13 Q. Did anyone assist you in preparing
14 this information in speaking with the guardianship
15 judge?

16 A. My husband, who was the family
17 father, wrote a letter himself to bring to the
18 judge.

19 Q. But you didn't consult with any
20 accountants or lawyers in doing so?

21 A. No, our accounts were very simple
22 and transparent.

23 Q. Going back to when the guardianship
24 judge indicated his first concerns, you said:
25 "That's why we asked Madoff to come to Paris."

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1 Did you actually ask Madoff to come to Paris to
2 meet with the guardianship judge?

3 A. I wasn't the one to speak to Madoff.
4 I think it must have been my mother. I never
5 spoke to him, actually, except for about one hour
6 in 1981.

7 MR QUINT: "When I didn't know who
8 he was."

9 THE INTERPRETER: Okay, that's true:
10 "When I didn't know who he was."

11 THE WITNESS: Madoff didn't meet the
12 judge, either; he came and met our notary. Our
13 notary had prepared a model of the guarantees that
14 we wanted Madoff to provide, that he needed to
15 accept, to bring to the judge. There was a
16 discussion and, in the end, he agreed and signed
17 that document at the notary's -- that document
18 that was purpose made. Then, while he was at it,
19 he signed the same one for me.

20 MS SELTZER: "There was a discussion
21 between Madoff and the notaire."

22 THE INTERPRETER: I said that.

23 MS SELTZER: No, you said "there was
24 a discussion."

25 THE INTERPRETER: Okay.

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1 MS WANG: Mrs Apfelbaum, I'm going
2 to ask the court reporter to mark and hand to you
3 Exhibit 23, which is a single page bearing the
4 Bates No. ESQU-BR00007822.

5 I'm not expecting that you have seen
6 this document before but I'm going to try to use
7 it to let you review it and see if this -- and ask
8 you if this document was -- sorry, let me rephrase
9 that.

10 I'm not expecting that you've seen
11 this document before, but I'm wondering if it may
12 refresh some of your recollection about that time
13 period and about what Mr Madoff was asked to do.

14 (Exhibit No. 23 marked for
15 identification.)

16 I apologize it is all in English,
17 but if you need to consult with the interpreter
18 over any of it, please feel free.

19 BY MS WANG:

20 Q. Have you seen Exhibit 23 before?

21 A. No, because documents which were
22 signed and provided to the judge were in French.

23 Q. Again, Maître Airault, who is the
24 addressee at the top of this letter, was your
25 family's notary, is that right?

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1 A. Yes.

2 Q. You see the date says May 17, 1995.

3 Is that approximately when the discussions were
4 going on between Mr Madoff, the notary and the
5 guardianship judge concerning the Madoff
6 investments?

7 A. Well, I can't remember, but it would
8 be easy to verify because this document has to be
9 after my mother relinquished the usufruct and
10 around the time when we opened accounts with
11 Madoff. It could be verified.

12 Q. Did Maître Airault speak English?

13 MR COOPERMAN: Objection.

14 THE WITNESS: I can't remember.

15 BY MS WANG:

16 Q. Well, the reason why I'm asking is
17 because this letter is only in English and
18 obviously it's not translated into French, so...

19 MR COOPERMAN: But it's not signed,
20 so we don't even know if it was sent.

21 MS WANG: I know. I'm not saying
22 that Mrs Apfelbaum should have seen it, I'm not
23 saying that it was sent, I'm just saying this is
24 just a document that we found.

25 ///

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1 BY MS WANG:

2 Q. Do you see the first line of the
3 body of the letter, where it says:

4 "At the request of the Apfelbaum
5 family, I am pleased to submit the following
6 information concerning our intended investment
7 strategy for their daughter Emilie"?

8 A. Yes.

9 Q. Is that consistent with your memory
10 of the type of information that either the
11 guardianship judge or the notaire wanted
12 concerning Emilie's accounts and investments in
13 the United States?

14 MR COOPERMAN: Objection.

15 THE WITNESS: I don't have an
16 opinion on this. I remember the judge wanting to
17 know where the money was going.

18 BY MS WANG:

19 Q. As you sit here today you have no
20 knowledge or recollection whether a letter like
21 this was ever submitted to the guardianship judge
22 or to Mr Airault, is that right?

23 MR COOPERMAN: Objection.

24 THE WITNESS: Papers were provided
25 to the judge but I can't remember which ones

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1 exactly; this was a long time ago.

2 MS WANG: I'm going to ask the
3 reporter to mark as Exhibit 24 a multi-paged
4 document. It does not have Bates numbers because
5 it was attached as an exhibit to some of the
6 briefing that was filed in this case, but I want
7 to call your attention to some pages. The textual
8 pages, there's a letter in French as well as an
9 English translation. Take a look at it, let me
10 know if you have seen it before.

11 (Exhibit No. 24 marked for
12 identification.)

13 BY MS WANG:

14 Q. My question was whether you had seen
15 this document before?

16 A. Yes, the page where my signature is
17 I have.

18 Q. What is this document?

19 A. It's the contract that Madoff
20 proposed to me after having done Emilie's. It
21 isn't Emilie's because Emilie's is also signed by
22 my husband.

23 Q. So this contract you believe
24 concerns your account?

25 A. To my mind, yes.

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1 Q. Now, do you see -- I'm looking at
2 the English translation, but feel free to look at
3 the French. Do you see at number 1), where it
4 says:

5 "The client agrees to deposit funds
6 and/or securities with Madoff, so that these can
7 be deposited into an account at Madoff for the
8 client's benefit."

9 Do you see that?

10 A. I see.

11 Q. Did you, in fact, deposit new funds
12 at Madoff or was this effected through an
13 inter-account transfer at BLMIS?

14 MR COOPERMAN: Objection.

15 THE WITNESS: It's the inheritance,
16 the inheritance from my father.

17 BY MS WANG:

18 Q. But the inheritance, for example,
19 was never withdrawn, converted into cash and then
20 redeposited at this time, is that right?

21 MR COOPERMAN: Objection.

22 THE WITNESS: I don't think so.

23 I can't remember.

24 BY MS WANG:

25 Q. Do you see on number 4), where it

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1 **says:**

2 **"The client will pay Madoff, in**
3 **commission, fees not exceeding 12.5 US cents per**
4 **share and 300 US dollars for every 1,000,000**
5 **dollars in American Government bonds."**

6 **Do you see that paragraph?**

7 **A. Yes.**

8 **Q. What did you understand this**
9 **paragraph to mean?**

10 **MR COOPERMAN: Objection.**

11 **THE WITNESS: Technically it doesn't**
12 **mean much, but in a concrete way it means that**
13 **Madoff wanted us to reinvest with him (that's why**
14 **he came to Paris), and he was granting me a...**

15 **BY MS WANG:**

16 **Q. Was he granting you reduced**
17 **commissions compared to what he charged other**
18 **customers? Is that what he told you?**

19 **A. That's what he said but I don't know**
20 **what conditions he was granting other people.**

21 **Q. Right. Of course.**

22 **A. He was a very good salesman.**

23 **Q. As we found out.**

24 **Did you, in fact, pay commissions to**
25 **Mr Madoff for the trades that were going on in the**

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1 accounts?

2 MR COOPERMAN: Objection.

3 THE WITNESS: It's part of the
4 accounts and I've never really looked into it and
5 understood what was going on. All I did was to
6 look at the results and translate them into euros
7 and make sure I was declaring them properly to the
8 French taxes. My obsession was the French tax.
9 My only activity with these accounts was to look
10 at the results.

11 BY MS WANG:

12 Q. So, for example, Mr Madoff never
13 sent you a separate invoice for commissions?

14 A. Not that I would remember.

15 MS WANG: I'm told the tape is about
16 to end, so why don't we take our break. If lunch
17 is here maybe we should just take our lunch break
18 now.

19 MS SELTZER: I'll check.

20 THE VIDEOGRAPHER: We are going off
21 the record. The time is 11:55.

22 (Off the record - 11:55 a.m.)

23 (On the record - 1:06 p.m.)

24 THE VIDEOGRAPHER: This is the
25 beginning of tape two, volume two. The time is

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1 1306. We are back on the record.

2 BY MS WANG:

3 Q. Mrs Apfelbaum, I'm going to have the
4 court reporter hand you what has been marked as
5 Apfelbaum Exhibit 25. It is a multi-page document
6 of a French document with a certified translation.
7 Again, it does not have Bates numbers on the page
8 because it was submitted in connection with a
9 motion in this case.

10 (Exhibit No. 25 marked for
11 identification.)

12 BY MS WANG:

13 Q. My question for you, when you have
14 reviewed it, is if you could tell me what it is.

15 A. Yes.

16 Q. So my question is what is
17 Exhibit 25?

18 A. It is the document I mentioned
19 before, the guarantee that Madoff brought up to
20 the judge of guardianship, as requested, and it is
21 signed by my husband and myself.

22 Q. Do you see in the section marked
23 number 4) it again has a section where it says:

24 "The client will pay Madoff, in
25 commission, fees not exceeding 12.5 US cents per

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1 share and 300 US dollars for every 1,000,000
2 dollars in American Government bonds."

3 Do you see that paragraph?

4 A. Yes.

5 Q. What did Mr Madoff tell you about
6 commission fees that would be charged on your
7 daughter's account?

8 MR COOPERMAN: Objection.

9 THE WITNESS: I can't remember
10 anything in particular. All I know is that
11 we needed a guarantee for her capital. You know,
12 that was the time of the BIF and these are
13 technical papers and there was a notary and my
14 husband was there, so I didn't get into the
15 details of anything.

16 BY MS WANG:

17 Q. Do you remember if you were charged
18 commission for any transactions in Emilie's
19 account, whether the account was at BIF or after
20 when you were handling the accounts personally?

21 MR COOPERMAN: Objection.

22 THE WITNESS: Whether it was on BIF,
23 maybe. Maybe it was on something else. It went
24 for Emilie's account as it did for mine. I can't
25 remember.

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1 BY MS WANG:

2 Q. What was Mr Madoff's explanation for
3 the less-than-customary commissions?

4 MR COOPERMAN: Objection.

5 THE WITNESS: Same answer that
6 I gave for the contract.

7 BY MS WANG:

8 Q. You gave for the other contract for
9 your personal accounts?

10 A. Yes.

11 Q. I'm looking back at the transcript.
12 You're saying that your understanding of the
13 commissions paragraph in this agreement is the
14 same as your understanding of the purpose of the
15 commissions paragraph in the agreement for your
16 account that we spoke about before lunch?

17 MR COOPERMAN: Objection.

18 THE WITNESS: Yes.

19 BY MS WANG:

20 Q. Turning to the paragraph numbered
21 5), can you tell me what that paragraph -- can you
22 tell me the purpose of that paragraph?

23 A. Well, that is the essential
24 paragraph, which is the guarantee intended for the
25 judge and the pre-requisite for us to invest in

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1 this form of investment.

2 Q. When you said the pre-requisite to
3 invest in this form of investment, you mean in
4 terms of keeping the investment at BLMIS; is that
5 right?

6 MR COOPERMAN: Objection.

7 THE WITNESS: Emilie and I inherited
8 some money and it was totally new -- it was new
9 money coming. For Emilie it was important to
10 apply some conditions. If this paragraph hadn't
11 been there the conditions wouldn't have been met
12 and the decision might have gone another way.

13 BY MS WANG:

14 Q. When you say "the decision might
15 have gone another way," you mean the guardianship
16 judge would have required you to take Emilie's
17 investment out of Madoff, is that right?

18 A. I can't tell you what the judge
19 would have said. She (since she's a woman) did
20 specify some conditions, and those conditions
21 applied to any type of investment, and they were
22 that it should be reasonable and offer guarantees.

23 Q. So in paragraph 5) of Exhibit 25
24 Madoff was essentially -- your understanding is
25 that Madoff was essentially guaranteeing that the

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1 capital in Emilie's BLMIS account would decline by
2 no more than 5% a year, if at all?

3 MR COOPERMAN: Objection.

4 THE WITNESS: Yeah, that's what it
5 says.

6 BY MS WANG:

7 Q. Who drafted this agreement?

8 MR COOPERMAN: Objection.

9 THE WITNESS: As regards this
10 essential paragraph laying down the main
11 condition, Maître Airault wrote a draft and
12 submitted it to Madoff, they held a discussion
13 about it and agreed on it. I wasn't involved in
14 these technical aspects (which I don't always
15 understand) so I'm not into the detail of it. But
16 I know it's the result of a discussion between
17 Maître Airault, who prepared it, and Madoff, who
18 agreed. And I'm talking only about this paragraph
19 number 5), the rest of the document doesn't
20 contain anything where there were requirements, as
21 far as I know.

22 MS SELTZER: "Where we have
23 requirements."

24 [Discussion]

25 THE INTERPRETER: "The rest of the

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1 document doesn't involve anything where we had
2 requirements."

3 THE WITNESS: At least not me
4 personally.

5 BY MS WANG:

6 Q. Now, it was the guardianship judge
7 who required that there be some form of guarantees
8 concerning Emilie's account, is that right?

9 MR COOPERMAN: Objection.

10 THE WITNESS: Yes, that's what
11 I said.

12 BY MS WANG:

13 Q. Where did the 5% loss figure come
14 from in this paragraph 5)?

15 MR COOPERMAN: Objection.

16 THE WITNESS: I don't know.
17 I didn't write this, it's the notary who wrote it.
18 I suppose it was part of -- well, I don't know.
19 I don't know the law exactly in these matters.
20 I don't know what should be in such a case, what
21 clauses should be. I know that what the judge
22 wanted was a guarantee, but the exact terms
23 I wouldn't know.

24 BY MS WANG:

25 Q. But certainly you weren't privy to a

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1 discussion or aware of a discussion --

2 A. Excuse me.

3 And the notary is a man of the law
4 and he is the one who should know.

5 Q. Back to my question.

6 Certainly you were not privy to a
7 discussion or aware of a discussion in which the
8 guardianship judge required losses of no less than
9 5% in the account, right?

10 MR COOPERMAN: Objection.

11 THE WITNESS: I had my husband with
12 me. I was still under shock. I trusted my
13 husband, the judge and the notary to know what to
14 do and I wasn't involved in the details. I wasn't
15 listening to every word that was said.

16 BY MS WANG:

17 Q. I just want to clarify something in
18 the record. I realize I misspoke when I said does
19 the guardianship judge require losses of no less
20 than 5%. The question should have been: You have
21 no understanding or no knowledge of who might have
22 set a limit on the degree of losses in capital in
23 Emilie's BLMIS account, is that right?

24 MR COOPERMAN: Objection.

25 THE WITNESS: No.

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1 BY MS WANG:

2 Q. My last question on this paragraph.
3 Where it says: "Madoff agrees to compensate the
4 client for any losses [in excess of] 5 percent of
5 the capital market value," is it
6 your understanding that Madoff would have refunded
7 any losses over 5% in Emilie's account?

8 MR COOPERMAN: Objection.

9 THE WITNESS: I don't know what he
10 would have done, but his duty was not to invest in
11 investments that could have brought about losses
12 more than 5%.

13 BY MS WANG:

14 Q. Your recollection is that there were
15 never any losses in Emilie's account, is that
16 right, so that this paragraph never came into
17 play?

18 A. Madoff had -- well, there were no
19 losses because Madoff had set up a system that was
20 different in the case of Emilie's account than
21 mine. It was a system of puts and calls
22 (something which I never really understood), but
23 he assured me that it was the way not to incur any
24 risk.

25 Q. Just to clarify your answer there.

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1 Madoff set up a system for Emilie's account that
2 involved puts and calls that therefore would
3 minimize the risk to the capital of her account?
4 Is that right?

5 MR COOPERMAN: Objection.

6 THE WITNESS: Yes, that's just what
7 I said.

8 BY MS WANG:

9 Q. And your personal account didn't
10 involve trading in puts and calls, is that right?

11 A. No.

12 MS WANG: I'm going to ask the
13 reporter to mark a multi-paged document as
14 Exhibit 26. It is stamped Brunner 0066 through
15 Brunner 0072.

16 (Exhibit No. 26 marked for
17 identification.)

18 BY MS WANG:

19 Q. Mrs Apfelbaum, if you could take a
20 look at Exhibit 26 and let me know if you have
21 seen anything like this before.

22 A. No, I haven't.

23 Q. I'll tell you pages Brunner 0067
24 through to the end of that exhibit were the
25 typical forms that Madoff had sent to several of

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1 his investors to fill out when they were opening
2 accounts. It's your testimony that you have never
3 seen any documents like this before and never been
4 asked to fill out any documents that looked like
5 this before?

6 MR COOPERMAN: Object to the
7 preamble.

8 THE WITNESS: No, I haven't.
9 BY MS WANG:

10 Q. One last thing. Do you see on
11 Exhibit 26 at page Brunner 0071 there's a form
12 called form W-8 Certificate of Foreign Status. Do
13 you see that? Were you ever given a form like
14 this or requested to complete a form W-8 in
15 connection with your BLMIS accounts or with
16 Emilie's BLMIS accounts?

17 A. No, not as far as I can remember.

18 Q. So now I want to discuss a little
19 bit about your mother's estate and how that was
20 handled with BLMIS.

21 Your mother passed away in 2005, is
22 that right?

23 A. Yes.

24 Q. You had testified yesterday that you
25 opened the succession account at BLMIS to

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1 segregate funds to pay back US (United States)
2 income taxes, is that right?

3 A. Yes. There was a problem of income
4 tax that was due in the States and I discovered
5 this when my mother's estate was revealed. As a
6 US citizen she -- since 1948 she should have been
7 paying tax --

8 [The witness speaks to the interpreter in
9 French]

10 She had been in France, and so she
11 hadn't realized that, since she had been in France
12 since 1948, that she should have been paying
13 income tax in the US. I wanted to get all this
14 sorted out.

15 I contacted an American lawyer and
16 it ended up being a long and complicated and
17 uncertain matter. So I felt it was the better to
18 open -- although I had closed her account when she
19 passed away, I decided to reopen an account that
20 would be separate and that would be to deal with
21 these matters, so as not to get mixed up with my
22 own accounts.

23 BY MS WANG:

24 Q. When you say "although I had closed
25 her account when she had passed away," you mean

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1 Mrs Doris Igoin's BLMIS account was closed when
2 she had passed away, is that right?

3 A. Yes, the account at BLMIS.

4 Q. So then, when you opened the
5 succession account to deal with the US taxes, you
6 opened a new account at BLMIS and transferred
7 funds from your account into the succession
8 account to pay for the taxes, is that right?

9 A. When my mother passed away I closed
10 her BLMIS account and reinvested -- which was at
11 Madoff -- and reinvested in another account, also
12 at Madoff. But when the IRS problem started to
13 happen I took out some amounts from that account
14 with my mother's money and I put it in a different
15 account, a special account, so that I could take
16 care of the succession problems from that account.

17 In fact details are coming back to
18 my memory. It was all a very long-winded matter.
19 Because having inherited --

20 THE INTERPRETER: No, sorry.

21 THE WITNESS: -- having IRS to pay
22 in the States made a difference to my succession
23 even in France. I discovered that my mother had a
24 big debt with IRS and that influenced not only the
25 taxes I had to pay in the US, but also in France.

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1 So there was a lot of coming and going of figures,
2 both with the French tax authorities and with the
3 IRS that went on for months and even for years.
4 The cases were both open with both tax authorities
5 for a long time.

6 MS SELTZER: Laurence said there was
7 also an estate tax in the US.

8 THE INTERPRETER: Yes. IRS taxes.
9 Yes. Estate tax also in the US, not only in
10 France.

11 BY MS WANG:

12 Q. Who are the American lawyers who you
13 consulted regarding the US tax?

14 MR COOPERMAN: Objection.

15 THE WITNESS: Ambre Seltzer, who's
16 here and...

17 MS SELTZER: Carina (C-A-R-I-N-A)
18 Levintoff (L-E-V-I-N-T-O-F-F).

19 MS WANG: I am going to ask the
20 reporter to mark as the Exhibit 27 a multi-paged
21 document bearing numbers AMF00078153 through
22 AMF00078158.

23 BY MS WANG:

24 Q. Can you take your time to look
25 through Exhibit 27 and let me know if that

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1 refreshes your recollection about some of the
2 issues you were dealing with with your mother's
3 estate?

4 (Exhibit No. 27 marked for
5 identification.)

6 MR COOPERMAN: This is another
7 document that hasn't been produced to us, is that
8 correct?

9 MS WANG: Uh-huh.

10 MR COOPERMAN: I just want to make,
11 on the record, a statement, because I'm certainly
12 going to pursue this with the court.

13 When we sought jurisdictional
14 discovery the Trustee objected to allowing us to
15 search for any documents on the basis it would be
16 too burdensome. I find it both cynical and
17 extremely upsetting that you took the time to do
18 everything which you claimed would be too
19 burdensome and now you are using these documents
20 against us. That's totally inconsistent with the
21 spirit of US law, it's totally inconsistent with
22 exactly what you said at the court.

23 So you go ahead, you'll take the
24 deposition the way you want, but I'm obviously
25 going to complain about all this. What I was

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1 looking for was to extract your quote about this
2 in a letter, and I found it and you did object
3 that it would be burdensome to have to look
4 through all the records to find anything that we
5 requested.

6 Proceed at your own peril, but we're
7 certainly going to make an issue of this.

8 MS WANG: Would having Exhibit 27
9 have made a difference? Would it have had you
10 withdraw your motion contesting jurisdiction?

11 MR COOPERMAN: No, but it would have
12 allowed us to do what the purpose of discovery is,
13 which is you don't try to ambush by surprise,
14 which you're doing now. That's the whole point of
15 US discovery, that each side gets to see the
16 other's documents beforehand. And when you are
17 complaining it was too burdensome to ever look
18 through these things, but then you looked through
19 it yourself, that's outrageous.

20 MS WANG: I think you are confusing
21 fact discovery with jurisdictional discovery. You
22 filed a motion to dismiss on the grounds that
23 there was no personal jurisdiction over
24 Mrs Apfelbaum or any of the defendants in this
25 case.

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1 MR COOPERMAN: Not --

2 MS WANG: These documents would have
3 been produced to you in our initial disclosures in
4 fact discovery; however, since you chose to file a
5 motion to dismiss, we were not able to get to that
6 step. What the judge ordered was jurisdictional
7 discovery, which is discovery into the facts that
8 would be specifically known to your client, and
9 your clients, as to their contacts with the United
10 States concerning these -- and people within the
11 United States concerning these accounts.

12 MR COOPERMAN: There's no
13 substantive difference between jurisdictional
14 discovery and regular discovery. The purpose of
15 discovery is to allow us, each side, to discovery
16 what each is going to argue in certain motions.
17 So you proceed how you want, I just want you on
18 notice that to the extent you continue to use
19 documents, I'm certainly raising this with the
20 court.

21 I've said my piece, you proceed as
22 you want and so be it.

23 MS WANG: There was a finding by the
24 court that you were not entitled to discovery from
25 us on what we planned to show in support of

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1 jurisdiction over the defendants in this case.

2 MR COOPERMAN: Exactly. That's
3 because you wrote to the court and you said --
4 I'll quote it for you if you like -- you said it
5 would be too burdensome for the Trustee to have to
6 look through all these boxes of documents to find
7 what we wanted. But you did it yourself now and
8 you are using it against my client. That's what's
9 upsetting.

10 MS WANG: This is two years later,
11 after jurisdictional discovery has been ordered.
12 We've had two years to look through the documents
13 in preparation for this deposition. Are you
14 seriously suggesting that we should only have come
15 into this deposition using only the documents that
16 your clients chose to produce to us to take our
17 deposition to support our assertion of
18 jurisdiction over the defendants?

19 MR COOPERMAN: What I'm suggesting
20 is what's good for the goose is good for the
21 gander. If you are claiming to a court that we
22 are unable to look through your documents and
23 request any documents from you because it's too
24 burdensome, yet at the same time you did that
25 burdensome task and now you are using documents

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1 against my client, that's wrong.

2 So I've said my piece, go ahead at
3 your own risk and so be it.

4 MS WANG: Again, I think you are
5 confusing the point -- the difference between
6 jurisdictional discovery and fact discovery.

7 MR COOPERMAN: I am not confused.

8 MS WANG: Jurisdictional discovery
9 is limited to facts and issues -- as we indicated
10 in the commission and as we had agreed to in the
11 commission -- facts that would be known to your
12 client about contacts with the United States.

13 MR COOPERMAN: These are facts which
14 you are now trying to use which you're going to
15 claim were known to my client which were in your
16 possession. It's directly relevant. I'm not
17 confused.

18 We need not argue this anymore. You
19 know my point. Go at your own risk. But I want
20 to put this on the record now so that when I make
21 my motion to the court you're not going to say:
22 He never told me that I shouldn't use these
23 documents.

24 MS WANG: What's your motion to the
25 court going to be?

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1 MR COOPERMAN: You'll see my motion
2 to the court. It's going to be --

3 MS WANG: It wouldn't have changed
4 your assertion that there was no jurisdiction over
5 your clients, would it?

6 MR COOPERMAN: No, but it would have
7 allowed me to look at the documents beforehand to
8 see (a) what you have, which is the purpose of
9 discovery. And the fact that you looked through
10 documents and you found documents which you think
11 are harmful to my client, I could, perhaps --
12 I have no clue what's in those documents -- have
13 found documents that are helpful to my client. So
14 that thereby now I can't make -- I can't claim --
15 there may be documents -- I haven't seen them --
16 there may be documents where Madoff talks about
17 all this is all in France and "she never called
18 me." I have no idea what they say, but I have not
19 had the chance to look through it; that's the
20 purpose of discovery.

21 So, go ahead, go at your own risk.

22 MS WANG: Let's go through and let's
23 see if you would decide to withdraw your motion to
24 dismiss.

25 MR COOPERMAN: There's no way I'm

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1 going to withdraw my motion to dismiss, but what
2 I would like to have done is what the Federal
3 rules require, is to allow me discovery to see
4 what you have.

5 MS WANG: Now you're seeing what
6 we have. If what you are saying is that it would
7 not have made a difference to whether you withdrew
8 your motion to dismiss or not, then I'm not sure
9 where that gets us and what your motion is trying
10 to do anyway.

11 MR COOPERMAN: Because you, no
12 doubt, went through all your documents and looked
13 to see the good, the bad and the maybe. I didn't
14 have that chance. That's the problem.

15 MS WANG: In any event, this
16 document, Exhibit 27, is being used to refresh
17 Mrs Apfelbaum's recollection, it is not (and
18 I never intended and I never said) that I expected
19 that Mrs Apfelbaum had seen this or had these
20 documents in her possession.

21 That said, why don't we talk about
22 Exhibit 27.

23 MR COOPERMAN: What is it refreshing
24 her recollection about?

25 ///

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1 BY MS WANG:

2 Q. The question pending was: After you
3 had a chance to look through Exhibit 27, can you
4 let me know if that refreshes your recollection
5 about some of the issues and communications you
6 had with people at BLMIS concerning your mother's
7 estate and the payment of US income taxes.

8 MR COOPERMAN: Objection.

9 THE WITNESS: I can recognize my
10 handwriting. That's mine. And there are some
11 faxes with this letter. Are they the ones that
12 were supposed to be there? That I can't be quite
13 sure because they're not signed. However --

14 [The witness speaks to the interpreter in
15 French]

16 The two faxes that I sent are with
17 my handwriting, no doubt about that. But I don't
18 know what they refer to because there's no date.

19 However, I can tell you about my
20 mother's succession and how complicated it was.
21 Because amongst her assets there were the ones
22 where the bare ownership went to Emilie and where
23 the bare ownership went to me, and then there was
24 the part which became entirely mine because I was
25 the sole heir of my mother. Then there's the

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1 question of the percentages that applied every
2 year, as we saw before. So each person had to be
3 given their share and what they were owed.

4 Then there was the decision to
5 reinvest. Then that's when I had contact with
6 Madoff. Of course first I had contact with him to
7 tell him that my mother had died and then the next
8 thing was to discuss how I wanted to handle these
9 different parts of the estate. That's when I told
10 him about reinvesting for my daughter and for
11 myself. And it's all written up by a notary
12 because in France it's a notary who deals with the
13 succession and who deals with all the paperwork.
14 For example, he's the one who wrote up the
15 succession.

16 BY MS WANG:

17 Q. So the first two pages of
18 Exhibit 27, which are handwritten and end in 153
19 and 154, that's your handwriting and signed by
20 you, is that right?

21 A. Correct.

22 MR COOPERMAN: You ask the
23 handwriting as opposed to the numbers on top?

24 THE WITNESS: Not the numbers.

25 ///

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1 BY MS WANG:

2 Q. With the exception of the numbers on
3 the top of the second page, the handwriting on the
4 first two pages of Exhibit 27 is your handwriting
5 and it is signed by you, is that right?

6 A. Yes.

7 Q. It was sent by you to Mr Frank
8 de Pascali?

9 A. The one where it says "Dear Frank,"
10 yes. The other one, I don't know.

11 Q. When you say "the other one," what
12 do you mean?

13 A. Well, there are two pages and I'm
14 not entirely sure they come from the same fax.

15 Q. Let's look at the fax header then at
16 the top, where it looks like 28/06/05 and there's
17 a time and it says page 1. Then the next page
18 says 28/06/05. There's a time. Both appear to
19 say 18:34 and the second one says page 2.

20 A. I wrote to di Pascali when it was to
21 do something fairly menial like communicate a
22 figure or find out if the bills had been redeemed,
23 but for bigger stuff I communicated with Madoff
24 directly. For example, I talked to him to tell
25 him my mother had died and I was trying to sort

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1 out the estate. So that's why I'm not sure
2 whether the second page is also for di Pascali.

3 MS CARBAJAL: She also said she sent
4 the legal documents to Madoff.

5 THE INTERPRETER: "Legal matters
6 were discussed with him and..."

7 [The interpreter speaks to the witness in
8 French]

9 THE INTERPRETER: "...these legal
10 documents were sent to Madoff."

11 BY MS WANG:

12 Q. Did you also mention communications
13 with Maître Airault during that answer?

14 A. He's the one who provided the
15 distribution of the estate.

16 Q. All right. Let's just limit the
17 discussion to the first two pages of Exhibit 27
18 for now.

19 Where it says:

20 "Dear Frank,

21 "I am sending you a letter which
22 I have just finished discussing with Bernard who
23 has probably been in touch with you by now."

24 "Bernard" means Bernard Madoff in
25 that sentence?

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1 A. Yes.

2 Q. And this "Dear Frank" is to Frank
3 di Pascali, right?

4 A. Yes.

5 The use of the first names is
6 because Frank di Pascali wrote to me
7 "Dear Laurence," so I wrote to him "Dear Frank,"
8 although I've never met him. So that is why first
9 names are used.

10 Q. The second page, can you read into
11 the record the handwriting that is yours, please?

12 A. It's my handwriting and it's my
13 signature.

14 Q. I'm asking if you can read it into
15 the record.

16 MR COOPERMAN: So we're going far,
17 far from just using this document to refresh her
18 recollection, is that right?

19 THE WITNESS (In English): "The
20 translation of this texts amount to the fact that

21 "79 [million, etcetera] Treasury
22 Bills should be drawn from my account and put into
23 a new account named 'Doris Igoin succession,'
24 which is my property but must remain separate from
25 my account in my name and must be maintained in

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1 Treasury Bills (with the usual procedure of
2 selling them before they expire) until the
3 settlement of the succession is completed."

4 BY MS WANG:

5 Q. And then that's your signature
6 below, right?

7 A. Yes.

8 Q. Does this page constitute the
9 instruction that 79,122,658 Treasury Bills should
10 be transferred into the Doris Igoin succession
11 account for the purposes of addressing the tax
12 issues that we were just speaking of?

13 MR COOPERMAN: Objection.

14 THE WITNESS: Yes, as I said.

15 BY MS WANG:

16 Q. Now, I may have been a little bit
17 confused when you were talking about how you had
18 to keep track of the property and the account that
19 belonged to your mother and some of which belonged
20 to you and some of which belonged to your
21 daughter.

22 Is it your understanding, if you
23 have an understanding, that the 79 million in
24 T-Bills constituted the portion that was
25 previously your mother's and not yours or Emilie's

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1 property before your mother's death or was it an
2 amount to cover income taxes that needed to be
3 paid or was it some other -- or did you arrive at
4 that figure for some other reason?

5 A. This amount is the money that was my
6 mother's property and that I inherited minus the
7 succession duties which I had to pay. And --

8 MR QUINT: "In France."

9 THE INTERPRETER: "In France."

10 THE WITNESS: -- I put it aside in
11 that account so as to be able to pay the
12 inheritance taxes in the States as well as the
13 backlog of IRS.

14 May I step out, please, before
15 we move to the next question?

16 MS WANG: Sure. Of course.

17 THE VIDEOGRAPHER: We are going off
18 the record. The time is 1408.

19 (Off the record - 2:08 p.m.)

20 (On the record - 2:18 p.m.)

21 THE VIDEOGRAPHER: Going back on the
22 record. The time is 1418.

23 MS WANG: The court reporter is
24 going to hand you what has been marked as
25 Exhibit 28. It is a multi-paged document that,

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1 other than the first unnumbered page, is
2 MADTSS01128122 through 25, and it is a document
3 that was attached to one of our filings, a motion
4 to dismiss.

5 (Exhibit No. 28 marked for
6 identification.)

7 BY MS WANG:

8 Q. Mrs Apfelbaum, I'd like you to take
9 a look at Exhibit 28 and let me know what it is.
10 Can you tell me what it is?

11 A. So what this is about is about the
12 system of puts and calls.

13 My tax advisor was actually ripping
14 his hair out because the system was such that
15 he could see what profits were made but he
16 couldn't see the losses, because the losses in
17 this system are -- they're suspended for as long
18 as five years, and it isn't advantageous fiscally.

19 And, you know, being on the right
20 side of the tax authorities is my main concern.
21 I don't know whether you know, but to have a tax
22 inspection in France is like going to your own
23 funeral, and that's something I've managed to
24 avoid all along because everything was always
25 aboveboard and very clear. It was my mother's

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1 obsession before me, then it became mine. So
2 everything has been fine and very well managed for
3 all these years.

4 So, to get back to this paper, my
5 tax advisor was therefore having a very hard time
6 because he couldn't deduct the losses. So when
7 Emilie turned 18 (and by the time this document
8 was issued, she was) we were able to stop the
9 system that had been set up in '95 to protect her
10 interests, this system of puts and calls. And
11 this document was dictated to me by my tax
12 advisor, and the point is to change the system and
13 finish the puts and calls.

14 When I said I managed to "avoid" a
15 tax inspection, that's not quite the right term,
16 because you can't avoid it. When it happens to
17 you it just hits you like a brick out of the blue,
18 and I was lucky not to have any.

19 Q. So you're saying that this document
20 was generated around the time when Emilie turned
21 18 and you then wanted to get out of the system of
22 investing through puts and calls, is that right?

23 A. It's dated. Emilie then was a
24 grownup and no longer had guardians.

25 Q. So the first page, the first textual

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1 page that has handwriting, where it says
2 "Dear Frank," again, that is a note handwritten
3 from you to Frank di Pascali, is that right?

4 A. Yes, it is.

5 Q. Then the typewritten pages
6 afterwards, were those generated by you or by
7 someone else?

8 A. My tax advisor dictated these pages
9 to me. He was trying to help me to understand
10 this puts and call system.

11 Q. Who is your tax advisor again?

12 A. Mr Philippe Colin at the time.

13 Q. Then in the first handwritten note,
14 the first page that's handwritten, where it says:

15 "Is this an adequate document for
16 working on our strategy for progressively evening
17 out Emilie's option loss/taxable gain gap?"

18 What were you asking there?

19 A. So it refers to the matter of the
20 suspended losses. I am asking the question about
21 this system which had been applied as a strategy
22 to protect Emilie's interests. But my advisor
23 thought it would be better to reintroduce losses
24 in the yearly balances, so under his dictation
25 I am asking about this.

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1 Q. So when you're saying your advisor
2 thought it would be better to reintroduce losses,
3 is it your understanding that you could use the
4 losses to offset gains?

5 MR COOPERMAN: Objection.

6 THE WITNESS: He wanted to know what
7 could be done. Because these losses were not
8 declarable, were not in the tax return, whereas
9 the profits were.

10 BY MS WANG:

11 Q. So you or your tax advisor were
12 looking for a way to use the losses in order to
13 potentially reduce your tax liability, is that
14 right?

15 MR COOPERMAN: Objection.

16 BY MS WANG:

17 Q. You can answer the question.

18 A. Yes. I think I've told you, how to
19 handle the question of these losses and stop the
20 system so that we wouldn't go on having these
21 unusable losses.

22 Q. After Emilie reached the age of
23 majority, did her account still -- did BLMIS still
24 execute puts and calls in her account?

25 A. I don't know when it actually

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1 stopped, but the point of this was to bring it to
2 stop.

3 Q. Did you discuss this with Mr Madoff
4 as well or only with Frank?

5 MR COOPERMAN: Objection.

6 THE WITNESS: It was something out
7 of the ordinary, so I talked to Madoff first who
8 told me to send the figures to Frank.

9 MS WANG: I'm going to ask the court
10 reporter to hand you what's been marked as
11 Exhibit 29.

12 (Exhibit No. 29 marked for
13 identification.)

14 MR COOPERMAN: Copies for me?

15 BY MS WANG:

16 Q. Can you take a look at Exhibit 29
17 and tell me what it is?

18 MR COOPERMAN: I assume the first
19 part is your translation?

20 MS WANG: Yeah.

21 MR COOPERMAN: Just so she
22 understands that.

23 MS WANG: Yes.

24 MR COOPERMAN: (To the witness) The
25 first part is they translated into English your...

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1 [Ms Delphine Eskenazi leaves the room and
2 Mr Jean-François Canat takes her place]

3 THE WITNESS: Those are the
4 succession deeds for my mother and my father.
5 BY MS WANG:

6 Q. Can I ask you to turn to the page
7 that's marked Apfelbaum01810. You can look at
8 either the French or the English.

9 Do you see under the "Identification
10 No. 2" and then paragraph 1) it says: "At BANQUE
11 POUR L'INDUSTRIE FRANÇAISE"? Is it your
12 understanding that the holdings referenced in this
13 paragraph number 1) constitute the holdings at
14 BLMIS that your father had at the time of his
15 death?

16 A. It's the account he had at BIF. And
17 there were some Treasury Bills. Then he had some
18 SICAV uses.

19 MR QUINT: That's a special form of
20 company designed for investments.

21 MS SWARTZ: It's a mutual fund.

22 MS WANG: So the BIF holdings listed
23 in this inventory include Madoff holdings as well
24 as some holdings in a French mutual fund, is that
25 right?

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1 MR COOPERMAN: Objection.

2 THE WITNESS: Yes.

3 BY MS WANG:

4 Q. Just below that, at number 2), where
5 it says "Banque Nationale de Paris," that's your
6 parents' joint checking account, is that right?

7 MR COOPERMAN: Objection.

8 You're asking if she -- not just to
9 read the document, you're asking her if she has an
10 understanding of it separate to just reading the
11 document?

12 MS WANG: Yes.

13 MR COOPERMAN: I want the witness to
14 understand that.

15 THE WITNESS: I can't remember the
16 details of everything my father had and in what
17 form, but I can tell you that the part that's mine
18 is a quarter, since half was for my mother and
19 I got half of the other half.

20 BY MS WANG:

21 Q. But it's your understanding that the
22 Banque Nationale de Paris is where your parents
23 had their joint checking account, is that right?

24 A. I can't remember. But I do remember
25 that my mother had an account at BNP because

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1 that's the one I closed when she died.

2 Q. And "BNP" means Banque Nationale de
3 Paris?

4 A. Banque Nationale de Paris.

5 Q. It's your recollection in your
6 testimony that the bulk of your father's estate
7 was held at Madoff, is that right?

8 MR COOPERMAN: Objection. She said
9 over and over it's BIF, not Madoff.

10 BY MS WANG:

11 Q. At the time of your father's death
12 BIF managed your father's holdings at BLMIS, is
13 that right?

14 MR COOPERMAN: Objection.

15 THE WITNESS: I don't know how to
16 answer this technically, but the accounts were at
17 BIF.

18 BY MS WANG:

19 Q. So the BLMIS holdings at the time of
20 your father's death would have been encompassed
21 and reflected under paragraph 1) where it says at
22 "At BANQUE POUR L'INDUSTRIE DE FRANÇAISE," is that
23 right?

24 MR COOPERMAN: Objection.

25 THE WITNESS: Yes. The Treasury

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1 Bills, the money that was managed by Madoff,
2 I don't know exactly how they interrelate, but, at
3 any rate, it's there in that account; that's where
4 the biggest amount of money is.

5 MS SELTZER: I think she said
6 "I don't know how Madoff and BIF interacted";
7 right?

8 THE INTERPRETER: Okay. "I don't
9 know how BIF and Madoff interacted."

10 BY MS WANG:

11 Q. Going to paragraph numbered 3) on
12 APFELBAUM01810, where it says: "12 shares of
13 stock [in] the S.I.M.A.D.O.P. Company," do you
14 have any understanding of what S.I.M.A.D.O.P
15 Company stands for?

16 [The witness answers in French]

17 MS WANG: There's a lot of "golf" in
18 that answer.

19 MR COOPERMAN: Even I understand
20 that without the translation.

21 THE WITNESS: That corresponds to
22 the Fourqueux (F-O-U-R-Q-U-E-U-X) Golf Club. To
23 be a member you had to have some shares in it, and
24 those were his shares in the golf club. I don't
25 know more than that because I don't play golf

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1 myself.

2 BY MS WANG:

3 Q. Okay. We're done with that
4 document.

5 Wait, before we do that. Is it your
6 understanding that at the time of your father's
7 death he had not placed any assets in trust for
8 you or your daughter, is that right?

9 A. No, I never heard about such a trust
10 in my name or my daughter's name. Everything he
11 had is described here.

12 Q. Okay. So all of your father's
13 assets would be described in this inventory that
14 you were aware of?

15 A. Yes. The whole estate is there.

16 MR QUINT: "The whole estate I have
17 knowledge of which."

18 BY MS WANG:

19 Q. So the whole estate of which you
20 have knowledge is listed in the inventory that is
21 Exhibit 29, is that right?

22 A. Yes.

23 MS WANG: Next the reporter is going
24 to hand you what has been marked as Exhibit 30.
25 I would like you to take a look at it. It's a

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1 multi-paged document marked Brunner0047 to
2 Brunner0049, together with an English translation.

3 (Exhibit No. 30 marked for
4 identification.)

5 BY MS WANG:

6 Q. Have you ever seen Exhibit 30
7 before?

8 A. Yes, I saw it the day before
9 yesterday when my lawyer showed it to me.

10 Q. So before preparing for this
11 deposition you had never seen Exhibit 30 before?

12 A. No.

13 Q. Do you recognize any of the
14 handwriting on Exhibit 30?

15 A. I recognize the signature but not
16 the handwriting. Firstly, he didn't write in
17 capitals. Secondly, he didn't write in italics.
18 Maybe he might have been very careful to make it
19 very legible, but normally his handwriting was
20 illegible.

21 Q. When you say you recognize his
22 signature, you mean you recognize your father's
23 signature on page 49?

24 A. On the last page I recognize it.

25 Q. But the handwriting on page 0048

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1 that has your name and your mother's name, you
2 don't necessarily recognize that as your father's?

3 A. Yeah, normally he wrote in a much
4 more illegible way. He might have made a special
5 effort, if that was his writing.

6 Q. It's fair to say that your father in
7 his lifetime never told you about a Panamanian
8 Company named Magnify, Inc?

9 A. No --

10 [The witness interrupts the interpreter
11 and continues her answer]

12 BY MS WANG:

13 Q. All right, let's get a translation
14 of that; that was long.

15 A. No, I didn't know anything about
16 this account because my father didn't discuss
17 those matters with us at all. He was open in the
18 sense that he discussed things like Spinoza and
19 psychoanalysis and psychoanalytical reviews. When
20 this came about it was a total and enormous
21 surprise for me.

22 I mean I might look composed just
23 now, but when I discovered all this it was quite a
24 shock. Because it happened because of the suit by
25 the Trustee that I realized that this account

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1 existed. So since then I've kind of got used to
2 the idea, but I really was flabbergasted. Just
3 the same as when we discovered the will.

4 Maybe my father meant well. He was
5 doing this for his wife and his daughter and
6 granddaughter, but it was still a shock. When he
7 was alive he seemed so open, but obviously there
8 was an undercover world of things going on with
9 the will and then this suit came about.

10 [The witness speaks to the interpreter in
11 French]

12 THE INTERPRETER: No, "undercover"
13 isn't the right word.

14 THE WITNESS: He wasn't doing
15 anything undercover, he was doing it without
16 telling us. There were things going on underneath
17 that we didn't know about. But that's because my
18 father had a whole history with clandestinity.

19 During the war he had to be a
20 clandestine, and when I was a little girl I was
21 made to change my name and I couldn't understand
22 why. He had a hard time to go back to his name
23 afterwards. He had to undergo attacks,
24 particularly when he joined the de Gaulle
25 government, because he went through as a

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1 Communist, because he had been under FILLON

2 (F-I-L-L-) --

3 [The witness speaks to the interpreter in
4 French]

5 -- Quillon (Q-U-I-L-L-O-N) -- Tillon
6 (T-I-L-L-O-N) who was one of the heads of the
7 resistance. And my father was with him and they
8 were Communists, and then he was in the de Gaulle
9 government.

10 Sorry, all this was about the word
11 "undercover" which was wrongly introduced by the
12 interpreter.

13 MS WANG: I'm going to ask the
14 reporter to mark Exhibit 31, which is a
15 three-paged document stamped Magnify00039 through
16 41. I'm just going to ask you to take a look at
17 it.

18 (Exhibit No. 31 marked for
19 identification.)

20 BY MS WANG:

21 Q. My question for you, Mrs Apfelbaum,
22 on Exhibit 31 is whether you have seen it before.

23 A. No.

24 Q. Had you seen it even in preparation
25 for this deposition?

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1 A. I don't think so.

2 Q. Do you recognize the handwriting on
3 the first two pages of Exhibit 31?

4 A. Yeah, it's getting much closer to
5 what my father's handwriting was. He wrote a lot
6 to himself and his writing was pretty much
7 scribbling, but here it's more like it.

8 MS WANG: I'm going to ask the
9 reporter to mark Exhibit 32, which is a two-paged
10 document bearing the numbers Magnify00042 and
11 Magnify00043.

12 (Exhibit No. 32 marked for
13 identification.)

14 BY MS WANG:

15 Q. Same question as the last document,
16 have you ever seen it before?

17 A. Same answer.

18 Q. Never seen it before but it's your
19 father's handwriting?

20 A. It seems to be, yes.

21 MS WANG: I'm going to ask the
22 reporter to hand you what's marked as Exhibit 33,
23 which is two pages bearing the numbers
24 Magnify00044 and Magnify00045.

25 ///

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1 (Exhibit No. 33 marked for
2 identification.)

3 BY MS WANG:

4 Q. The same questions, have you ever
5 seen this document before and is the handwriting
6 your father's?

7 A. Same answer. I hadn't seen the
8 document but it is the handwriting of my father in
9 a legible form, which was unusual.

10 Q. In legible form, which was unusual?

11 THE INTERPRETER: It was unusual for
12 it to be legible.

13 MS WANG: Let's take a quick break.

14 THE VIDEOGRAPHER: Going off the
15 record. The time is 1502.

16 (Off the record - 3:02 p.m.)

17 (On the record - 3:14 p.m.)

18 THE VIDEOGRAPHER: This is the
19 beginning of tape number three, volume two. The
20 time is 1514. We are back on the record.

21 MR COOPERMAN: I just want to say
22 before we start, the court reporter told me we are
23 on 3 hours 40 minutes today. We were here --
24 I realize there were breaks yesterday -- but for
25 6.5 hours, so I do hope you are coming to a

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1 conclusion rather quickly.

2 MS WANG: Part of the reason why
3 we took this break was to see what we could finish
4 up quickly today.

5 MR COOPERMAN: Good. Thank you.

6 THE WITNESS: Thank you.

7 BY MS WANG:

8 Q. When your father passed away there
9 were significant taxes that had to be paid in
10 connection with his estate, right?

11 A. Yeah, there were duties for Emilie
12 and myself, to cover our half of the estate.

13 Q. Are those duties based on the
14 approximate value of the estate or some other
15 figure?

16 MR COOPERMAN: Objection.

17 You're asking based on her
18 knowledge? She's not a lawyer, obviously, to know
19 this.

20 THE WITNESS: Those duties have set
21 rates and I can't remember what the rate was in
22 '95. They change. I don't know what the rate
23 would be today.

24 BY MS WANG:

25 Q. And those duties would have been

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1 paid out of the BIF account, is that right?

2 MR COOPERMAN: Objection.

3 THE WITNESS: Which BIF account?

4 Whose?

5 BY MS WANG:

6 Q. My understanding, from the inventory
7 that we just looked at, was there were holdings at
8 BIF, is that right?

9 A. Well, I have to remember. Well,
10 it's hard to remember the exact order in which
11 things happened. I've told you about the
12 difficult episodes after my father's passing away.

13 As far as I can imagine, you can't
14 take any money out of any account you've inherited
15 until the whole succession is closed, so how it
16 went with my mother getting the usufruct and
17 having to relinquish it ... it was all a difficult
18 time.

19 And then the judge and Madoff, who
20 came. And then we decided to invest my share and
21 Emilie's share of the estate with Madoff. I must
22 have known how much my share of the estate was.
23 Then there was the moment when we decided to go
24 with Madoff.

25 ///

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1 Now, did I pay the duties with my
2 own BIF account? Yes, I think so. And Emilie's
3 share of the duties must have been taken from her
4 account, though whether we took it from a BIF
5 account or any other account isn't really of
6 significance.

7 So, yes, we did pay with the BIF
8 accounts. As it happens, that's where we made the
9 decision to invest. If we hadn't decided to
10 invest in BIF then we would have paid with another
11 account --

12 [The witness speaks to the interpreter in
13 French]

14 -- then we would have paid from the
15 other account in which we would have placed our
16 money for investment. I mean I don't have any
17 other account where the money could come from.

18 Q. Were the duties that were owed on
19 the order of \$48 million or more or less?

20 MR COOPERMAN: Objection.

21 MR QUINT: That's figures.

22 MS WANG: Excuse me?

23 MR QUINT: That's a question about
24 figures.

25 MR COOPERMAN: I think he's invoking

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1 the French blocking statute.

2 MS WANG: So you can't even say
3 whether it was more than 50 million or less than
4 50 million?

5 MR COOPERMAN: I'll let Mr Quint
6 address that.

7 MS WANG: So you're instructing your
8 client not to answer?

9 MR QUINT: Yes, I do.

10 MS WANG: So your position is that
11 she is allowed to talk about the estate taxes,
12 when they were paid, but not even to give an
13 approximate more-or-less-than amount for any of
14 the estate taxes?

15 MR QUINT: Yes.

16 BY MS WANG:

17 Q. Are you going to follow your
18 lawyer's instruction not to answer?

19 A. Yes, I'm going to follow his
20 instructions.

21 MS WANG: Just to put this on the
22 record, I think Jonathan and I spoke during a
23 break yesterday that one of the reasons why we are
24 asking in particular about Mr Igoin's estate taxes
25 is that we believe that there may be another BLMIS

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1 -- one or more BLMIS accounts -- that were not --
2 that may be traceable to Mr Igoin and it's through
3 that account that the estate taxes were taken out
4 of.

5 One of the difficulties with your
6 continued assertion of the French blocking statute
7 is that we don't know if -- you know, we can't
8 tell if the accounts that -- the BLMIS accounts
9 that we've attributed to your clients constitute
10 all of the BLMIS accounts that have been
11 attributed to your clients or not, which we would
12 be able to do had we some semblance of some
13 figures in order to ballpark that.

14 MR COOPERMAN: May I just address
15 that.

16 While I recognize you have goals,
17 I say two things. One is, I understand the French
18 blocking statute is criminal in nature, it is not
19 meant to be civil, so Mr Quint -- and I'll let him
20 speak if he like -- so we're not going to allow
21 our client to subject herself to criminal actions.

22 Second of all, I think more
23 importantly, we are here today not to simply
24 search for assets for you folks, we're here on the
25 issue of jurisdiction.

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1 So, you know, I invite you to ask
2 Mrs Apfelbaum if she's aware of any other accounts
3 and, if she's not, then I don't really see how
4 your inquiry, however lofty goals it may have,
5 have anything to do with why we're here today.

6 MS WANG: First let me address the
7 jurisdictional question, since that is why we're
8 here.

9 You know, if there were another
10 account or accounts that were attributable to the
11 Igoin family, those would be further evidence of
12 jurisdictional context, so it would be another
13 account through which, you know, Mrs Apfelbaum or
14 Mrs Doris Igoin acted after Albert Igoin's death.
15 That said, I do you understand where you're coming
16 from with, you know, your objection -- your
17 continuing objection -- concerning the French
18 blocking statute.

19 Also, given Mrs Apfelbaum's
20 testimony yesterday and today that since all of
21 the accounts were administered through BIF she
22 doesn't know how many BLMIS accounts constituted
23 the account or, you know, the accounts in BIF --
24 in other words, it wasn't a one-to-one
25 correspondence, there wasn't one BIF account per

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1 one Madoff account -- this is why I'm trying to
2 get at the information in another way, because
3 I don't think this witness would know.

4 MR COOPERMAN: At the end of the
5 day, on jurisdiction, you are not seeking
6 Albert Igoin to be subject to American
7 jurisdiction, you are seeking Mrs Apfelbaum,
8 you're seeking her daughter. So it is their
9 contacts that go. So that's why I encourage you
10 to ask her about other accounts. I think I know
11 what her answer will be, and I think you know what
12 her answer will be, too. Other than that, while
13 I understand where you are coming from, I don't
14 think this is the right forum or the right place
15 to ask these things.

16 MS WANG: Again, I mean --

17 MR COOPERMAN: I hear what you're
18 saying, you heard what I'm saying, so...

19 MS WANG: We're just making our
20 record.

21 MR COOPERMAN: We're making our
22 record. I think we've made our record.

23 MS WANG: Going back to what you
24 were saying about Mrs Apfelbaum, this is about
25 jurisdiction over Mrs Apfelbaum because she has

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1 testified that she was involved in the
2 administration of her father's estate and her
3 mother's estates. So, you know, to the extent
4 that this relates to additional contacts between
5 Mrs Apfelbaum and BLMIS, I think it is relevant.
6 That said, we've made our record, we can move on.

7 MR COOPERMAN: Right. I disagree.
8 Let's move on and try to finish this because
9 we are, I believe, way beyond already the Federal
10 rules allowing time for depositions. I've given
11 you leeway but, please, let's move on.

12 BY MS WANG:

13 Q. I wanted to clarify some part of the
14 earlier testimony today where, when Emilie first
15 inherited from your father, the French
16 guardianship judge required half her inheritance
17 to be invested in French Treasury Bonds, is that
18 right?

19 MR COOPERMAN: Objection.

20 THE WITNESS: Yes. He wanted
21 nonspeculative investment, so Treasury Bills
22 seemed the right thing.

23 MS WANG: "French" Treasury Bills.

24 THE INTERPRETER: "French," yes.

25 ///

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1 BY MS WANG:

2 Q. Did there come a time when those
3 assets were reinvested? In other words, taken out
4 of French Treasury Bills and reinvested in
5 Emilie's BLMIS account?

6 MR COOPERMAN: Objection.

7 THE WITNESS: Well, I can't remember
8 the exact dates but I know that when the French
9 Treasury Bills matured coincides more or less with
10 Emilie's coming of age, and that's when we started
11 to give some thought to what to do with the
12 amounts and we decided to invest with Madoff.
13 This was a decision which wasn't --

14 THE INTERPRETER: Sorry, I withdraw
15 that.

16 THE WITNESS: My mother was still
17 alive and we trusted Madoff, so we thought it
18 would be good for her, too, and that's why
19 we decided to do that investment in 2000
20 something.

21 I wanted to specify that my mother
22 was still alive. Because you might remember that
23 there had been a conflict with her at the moment
24 of my father's estate, about the estate, and I had
25 got her to act against my father's will and she

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1 never quite forgave me (I have that feeling). So
2 this time around I wanted to do something that my
3 father would have done and go along with the
4 Madoff investment. Remember, there was no reason
5 not to trust it at the time.

6 MR QUINT: "Not to be satisfied."

7 THE INTERPRETER: Okay. "There was
8 no reason not to be satisfied with it."

9 BY MS WANG:

10 Q. So the decision to reinvest the
11 matured French Treasury Bonds in BLMIS, was that a
12 decision -- who made that decision?

13 MR COOPERMAN: Objection.

14 THE WITNESS: Officially Emilie, but
15 Emilie -- since she reached her majority -- but
16 Emilie hadn't got the faintest idea about that
17 sort of thing.

18 BY MS WANG:

19 Q. So who consulted with her on that
20 decision?

21 A. Well, my husband and I talked to
22 her. And I felt that Madoff had been okay for me,
23 so why not.

24 MS SWARTZ: You didn't finish
25 translating what she said.

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1 THE INTERPRETER: Sorry, did

2 I miss...

3 [The interpreter speaks to the witness in
4 French]

5 THE WITNESS: But we gave her a
6 choice. We told her she could choose what she
7 liked; however we didn't have very many other
8 ideas to suggest, and that's because I don't have
9 any particular financial knowledge. The person
10 who did have the financial knowledge was my
11 father. He was a rich man all his life. He had
12 been rich because --

13 [The witness speaks to the interpreter in
14 French]

15 All my life I've known him to be
16 rich. We were fairly rich (I mean by usual
17 standards) as kids, and that's because he knew
18 about these things. So I trusted his knowledge,
19 purported by my mother, and I wasn't going to
20 fight her again. She was still alive during this
21 choice and she -- if that's the choice, carried
22 over from my father, represented by her, was the
23 one, why not? I wasn't going to improvise myself
24 a guru of finance and come up with any other idea;
25 I couldn't.

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1 MS WANG: I'm going to ask the
2 reporter to mark as Exhibit 34 a three-paged
3 document stamped MADC0306, ending in 8, through
4 MADC0306, ending in 10. It is a chart that was
5 attached to the Trustee's complaint.

6 (Exhibit No. 34 marked for
7 identification.)

8 BY MS WANG:

9 Q. I just have a few very short
10 questions about this.

11 Do you see, on the second line,
12 where the date says "6/29/1995 CHECK WIRE,
13 (16,754,550)?" Does that represent the withdrawal
14 from Emilie's BLMIS account to put into French
15 Treasury Bonds?

16 MR COOPERMAN: Objection.

17 I just want the witness to
18 understand this was a document compiled by the
19 Trustee's expert looking at accounts.

20 (To the witness) I just want you to
21 understand where this came from.

22 MS SELTZER: (To the interpreter)
23 Could you reread the question?

24 THE INTERPRETER: (To Ms Wang)
25 Okay, could you repeat the question?

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1 BY MS WANG:

2 Q. Do you see that this is a chart?
3 The second line of the chart (which has a gray
4 background, which makes it especially hard to
5 read) says "6/29/1995 CHECK WIRE, (16,754,550)."
6 Does that reflect the withdrawal from Emilie's
7 BLMIS account to invest in French Treasury Bonds?

8 MR COOPERMAN: Objection.

9 You are asking her to speculate
10 about somebody else's intent in writing this down.
11 Seems highly irregular. We're well past the
12 seven-hour limit of depositions, it's not time for
13 her to make speculation.

14 (To the witness) If you understand
15 what that says you can, but you shouldn't
16 speculate.

17 THE WITNESS: So this was part of
18 the documents which I reviewed with Mr Pradie, who
19 was the tax advisor. And I'm not contesting the
20 figures, however I didn't know about these tables
21 and I don't know what the figure means, what it
22 corresponds to. So --

23 MR COOPERMAN: I just want to
24 caution, Mr Pradie is an attorney so anything the
25 witness spoke to Mr Pradie is privileged -- maybe

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1 she doesn't understand that -- and we're not going
2 to allow that to be discussed.

3 MS WANG: Can we at least let the
4 interpreter finish the translation?

5 MR COOPERMAN: Well, not
6 necessarily, because I didn't realize it was going
7 this way. Your question didn't --

8 MS SWARTZ: She didn't say anything
9 about what she discussed with Mr Pradie, okay? In
10 French she did not say what she discussed with
11 Mr Pradie. I don't know what the translator was
12 about to translate, but she didn't translate that
13 either.

14 THE INTERPRETER: No, I haven't had
15 time to finish.

16 MS SWARTZ: Exactly.

17 MR COOPERMAN: I just want the
18 witness to understand that anything she discussed
19 with Mr Pradie is privileged and she shouldn't
20 testify about it.

21 THE INTERPRETER: Would you like me
22 to finish?

23 MS WANG: I would like you to
24 finish.

25 [To Mr Cooperman] To the extent you

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1 still have an objection because something -- you
2 believe that there has been a disclosure of
3 privileged information, we will not call this --
4 we will not use this answer to constitute a waiver
5 of the privilege.

6 MR COOPERMAN: That's not the way it
7 works.

8 (To the witness) You should not
9 testify --

10 (To the interpreter) Please tell
11 the witness she should not testify about anything
12 Mr Pradie told her. I believe Ms Swartz is saying
13 that she hasn't already, so don't do it in the
14 future.

15 MS WANG: This is part of the reason
16 why this deposition is taking so long. In
17 addition to the delays inherent in conducting a
18 deposition in a foreign language and requiring
19 translations are your speaking objections that
20 continue to coach the witness in her answers.

21 MR COOPERMAN: So it is your
22 position that --

23 MS WANG: So I'm objecting to that.

24 MR COOPERMAN: So it is your
25 position that coaching the witness means telling

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1 the witness not to give up anything that's
2 attorney-client privilege? Is that your position?
3 Yes or no?

4 MS WANG: At this point there has
5 not been an answer that has disclosed any
6 attorney-client privileged information.

7 MR COOPERMAN: So your position is
8 I can't tell a witness that she shouldn't
9 answer attorney-client privileged information? Is
10 that your position?

11 MS WANG: That should have been part
12 of your deposition prep -- not that I'm telling
13 you how practice law.

14 MR COOPERMAN: Okay. So if we want
15 to talk about wasting time, we have gone over,
16 over and over again today, both this morning and
17 this afternoon, information that she told you
18 yesterday. So let's just end the -- what we're
19 saying here. Let's just finish this deposition.

20 MS WANG: That's what I'm trying to
21 do.

22 I asked a very simple question,
23 which was whether, on or around June 29, 1995,
24 more than \$16 million was withdrawn from Emilie's
25 BLMIS account and whether that amount was the

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1 amount used to invest in the French Treasury
2 Bonds.

3 MR COOPERMAN: She answered your
4 question.

5 MS WANG: We did not get an answer
6 and we did not get a complete translation.

7 MS SELTZER: You did get an answer,
8 but you didn't get a translation.

9 MS WANG: Because Mr Cooperman
10 didn't allow the witness to finish.

11 MR COOPERMAN: That's not right.

12 (To the interpreter) But go ahead.

13 THE WITNESS: I'm not contesting the
14 figure, having consulted Mr Pradie; however,
15 I have no idea what it was for. I would need my
16 own papers in order to find that out or to look
17 back. Because I can see that the date
18 corresponds, but it could being either for what
19 you said or to pay the succession taxes.

20 BY MS WANG:

21 Q. But is your recollection that the
22 money used to purchase the French Treasury Bonds
23 that were required by the French guardianship
24 judge was taken out of Emilie's BLMIS account? Is
25 that right?

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1 A. Yes, of course, since all Emilie's
2 inheritance was in BIF and it couldn't stay all as
3 Treasury Bills. Since the judge said some of it
4 had to be transferred, well, it had to come from
5 the BIF account.

6 Q. Looking at the first page of
7 Exhibit 34, is there any other entry of the
8 magnitude that would be sufficient to buy the
9 French Treasury Bills as required by the French
10 guardianship judge?

11 MR COOPERMAN: Objection.

12 THE WITNESS: In '95, no. But I was
13 looking --

14 MRS APFELBAUM: No, no, no, no, no.

15 [The witness speaks to the interpreter in
16 French]

17 THE INTERPRETER: "In '95, no" --

18 [The witness speaks to the interpreter in
19 French]

20 THE INTERPRETER: Sorry, the answer
21 was: "In '95, yes."

22 THE WITNESS: I'm sorry, I have
23 trouble reading this document. I have never read
24 these documents before. I had read them, but I'm
25 not familiar with them.

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1 BY MS WANG:

2 Q. So I guess my question still isn't
3 answered, which is: Is there any withdrawal on
4 the first page of Exhibit 34 that is of sufficient
5 magnitude to buy the French Treasury Bills as was
6 required by the French guardianship judge back in
7 1995?

8 MR COOPERMAN: Objection.

9 THE WITNESS: On the first page it
10 doesn't work, so the answer is no.

11 MR QUINT: "For 1995."

12 THE INTERPRETER: "For '95."

13 BY MS WANG:

14 Q. All right.

15 I want to turn your attention to
16 page 2, the second page of Exhibit 34. If you
17 look at column four, where it says "Cash
18 Deposits." If you read that column down the page,
19 it is empty until an entry on November 21, 2005,
20 which reflects a deposit of almost \$11 million.
21 Do you see that?

22 A. Yes.

23 Q. Does that reflect the reinvestment
24 after Emilie reached the age of majority?

25 MR COOPERMAN: Objection.

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1 THE WITNESS: Very probably, yes.

2 MS WANG: Okay, we're done with that
3 exhibit.

4 BY MS WANG:

5 Q. Did your parents ever discuss with
6 you any of their charitable activities in France
7 or in Israel?

8 A. No.

9 Q. So while they were alive, as far as
10 you know they did not engage in any charitable
11 activities in Israel or France?

12 A. I don't know because they didn't
13 mention this to me.

14 Q. How did you find out about the
15 collapse of BLMIS?

16 A. By the radio.

17 Q. At some point after you found out
18 about the collapse of BLMIS Ms Ayala Nadir called
19 you and told you about her activities in the
20 Yeshaya Hora(?) Association, is that right?

21 A. Yes.

22 Q. Can you tell me about that
23 conversation, since it has some -- obviously had a
24 reaction to it?

25 A. It was a lot of surprises in a short

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1 time. First, Madoff. Of course that was an
2 enormous surprise. Then a couple of weeks later
3 my cousin calls to tell me something I didn't know
4 at all, that my father had set up a foundation --
5 I can't remember the name exactly -- in Israel,
6 and that she --

7 MRS APFELBAUM: No.

8 [The witness speaks to the interpreter in
9 French]

10 THE WITNESS: At the time I'm not
11 sure she gave me the name. I'm not even sure she
12 gave me the name at the time.

13 -- in Israel, and she was the
14 manager. And she had also lost everything because
15 of Madoff. So it was a big surprise; I didn't
16 even know he'd done this. Because I didn't know
17 there was any other money than what was in the
18 estate. And I don't know with what money he'd
19 done it. So at first I didn't know that it
20 existed. Then I realized that my cousin had never
21 told me. I only discovered all this --

22 [The witness speaks to the interpreter in
23 French]

24 So she told me that. She'd never
25 told me until December 2008, and she'd had the

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1 chance when my father passed away, another chance
2 when my mother passed away, but she had never told
3 me.

4 MR QUINT: The witness has also said
5 that "she didn't tell me about that foundation
6 when my father died and neither when my mother
7 died."

8 MS WANG: I think that's what the
9 translation was.

10 [The witness speaks in French]

11 MS WANG: Can you please translate
12 what the witness just said.

13 THE INTERPRETER: Okay.

14 THE WITNESS: There's also something
15 that the translator didn't say: that I didn't know
16 -- I discovered that my father had other monies
17 than that that was in the estate, and that
18 I didn't know about. My life is full of
19 surprises.

20 BY MS WANG:

21 Q. So Ayala Nahir is your cousin,
22 right?

23 A. Yes.

24 Q. You had seen her intermittently
25 through family gatherings and she had never told

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1 you about the foundation that your father had set
2 up?

3 A. I met her here and then. There
4 weren't any family gatherings as such in our sort
5 of family, but from time to time I got to meet
6 her. She did come to Paris regularly, but I must
7 say --

8 MR QUINT: Not "regularly."

9 THE INTERPRETER: "Sometimes."

10 Sorry.

11 THE WITNESS: -- but I can't say
12 that I saw her much. We didn't get on
13 particularly well, we weren't close, and sometimes
14 I made it a point of duty to see her, but that was
15 quite infrequent.

16 BY MS WANG:

17 Q. Did you know what she did for a
18 living before 2008?

19 A. I saw her in a kibbutz, and then she
20 left it and I don't know what she did afterwards.

21 MR QUINT: "And I don't know when
22 she left the kibbutz."

23 BY MS WANG:

24 Q. So you don't know when she left the
25 kibbutz and what she did after the kibbutz, is

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1 that right?

2 [The witness speaks in French]

3 Okay, let's stop and get a
4 translation of that and see if I got an answer to
5 my question.

6 THE INTERPRETER: Okay.

7 THE WITNESS: I'll have to explain a
8 few things.

9 I didn't -- I hardly ever met her --
10 oh, yes, I did meet her once in Jerusalem and,
11 yes, I have to tell you how that happened.

12 I used to go a lot to Jerusalem --

13 MRS APFELBAUM: No.

14 THE INTERPRETER: Or "quite a few
15 times" --

16 MRS APFELBAUM: No.

17 [The witness speaks to the interpreter in
18 French]

19 THE INTERPRETER: Oh, "to Israel."
20 Sorry.

21 THE WITNESS: So you remember that
22 my husband has a wife and children and a mother in
23 Israel. So as long as my mother was --

24 Well, first, let me tell you, it's
25 when he left the ghetto, he stayed in France, he

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1 studied and lived in France, but his mother went
2 back to Israel after the war. And my husband,
3 therefore, often traveled to Israel to see his
4 mother, his children and his ex-wife (with whom he
5 got on quite well). And when I married him,
6 I also went to Israel with him. We went every
7 year at the end of the year in December. And
8 we mainly wanted to visit his mother until finally
9 it stopped when she died. And we used to go to
10 the Red Sea, to Sharm el Sheikh. That went on
11 until Sharm el Sheikh went over to Eilat and until
12 my mother-in-law passed away, and so that stopped.
13 But for a long time I went every year.

14 So once I met my cousin in
15 Jerusalem, at the museum where she was a volunteer
16 guide. Because normally we were in Tel Aviv, but
17 when I went to visit Jerusalem I saw her in the
18 museum. So that's one time I can mention when
19 I saw her.

20 MS SELTZER: No, that her activity
21 at the time was volunteer at the museum.

22 BY MS WANG:

23 Q. Approximately when was this?

24 A. I don't know. I would say early
25 '80s.

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1 MR COOPERMAN: Could I just ask the
2 court reporter, when either Mr Quint or Ms Seltzer
3 makes a comment on the translation, could it be
4 indicated here that they are not testifying, they
5 are just correcting the translation.

6 MS WANG: They're speaking. She's
7 taking down what they're saying.

8 MR COOPERMAN: But it comes out as
9 maybe they're testifying, which they're not doing,
10 they're translating.

11 MS WANG: Well, I might have an
12 argument that they are trying to testify for the
13 witness.

14 MR COOPERMAN: Well, you've got
15 several people who are fluent in French on your
16 side who would correct them if they were saying
17 something wrong, and I haven't heard that.

18 BY MS WANG:

19 Q. Do you know Ayala Nahir's children?

20 A. I met them a long time ago, once,
21 when I visited the kibbutz.

22 Q. Again, when did you visit the
23 kibbutz?

24 A. I don't know my biography with
25 dates.

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1 Q. 1980s? 1990s? I don't need an
2 exact...

3 A. I would say in the '70s. And it
4 might be in '77, because there was the Congress of
5 Psychoanalysis held in Israel in '77 (or maybe
6 '76), so it might have been at that occasion.
7 What helps me to remember is that I know I went
8 alone to the congress and to the kibbutz,
9 therefore it's before my marriage, but I'm not
10 quite sure.

11 Q. So is it fair to say that you don't
12 know what Miss Nahir was doing to make a living in
13 the 1990s or after 2000, between 2000 and 2008?

14 A. No, I don't know. But I would
15 assume she was retired because she's older than
16 me. Retired from what, I don't know. I don't
17 even know how the system works in Israel.

18 Q. Did your father and mother ever
19 discuss Miss Nahir or her children and also
20 whether they intended to make any financial
21 provisions for them?

22 MR COOPERMAN: Objection.

23 (To the witness) You can answer.

24 THE WITNESS: No, certainly not.

25 I know that because I, myself, when I came to

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1 write my will, was worried that I had to do the
2 right thing and, since my parents had never done
3 anything -- or mentioned anything -- about my
4 cousin, I felt it was my duty to think about it
5 and decide whether I wanted to do something. So
6 that is the proof that my parents had never
7 mentioned it.

8 BY MS WANG:

9 Q. Is Ayala Nahir your only cousin?

10 A. All the family? All the sons?

11 Q. First cousins?

12 A. So she was the daughter of my
13 father's sister. And this man was deported in
14 1942 and I never got to know --

15 MR QUINT: No, the mother.

16 THE INTERPRETER: Oh, sorry, the
17 mother.

18 MR QUINT: She died in Auschwitz,
19 not in deportation.

20 THE WITNESS: And my father had a
21 brother, Luke, who lived in France. His daughter
22 was saved from going to Auschwitz, and she married
23 an American.

24 My mother had a sister who has two
25 sons who are older than me. One lives in

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1 California and the other in Canada.

2 BY MS WANG:

3 Q. So when you said that when you came
4 to write your will you were worried that you had
5 to do the right thing as far as Ayala Nahir, what
6 did you mean by that?

7 A. Because life in Israel can be
8 frugal, and I thought that she probably had enough
9 money to live with but not a lot.

10 Q. Now, when you said that Miss Nahir
11 had called you in December 2008 and indicated that
12 she had lost everything also, did you come to
13 understand that that meant that she had
14 investments in Madoff as well?

15 A. She said so. It wasn't hers, it was
16 the foundation that she was leading.

17 Q. What did she mean when she called
18 you in December of 2008 and advised that you get a
19 lawyer? What did she say to you?

20 MR COOPERMAN: Objection.

21 [The interpreter translates the question
22 in French]

23 MS SELTZER: I'm sorry, that's
24 not -- that's not your question.

25 THE INTERPRETER: Okay.

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1 (To Ms Wang) Could you rephrase the
2 question? Sorry.

3 MS SELTZER: No, read it, you don't
4 have to rephrase it.

5 [Mr Quint reads the question from the
6 computer and translates into French]

7 THE WITNESS: She didn't advise me
8 to take a lawyer, she asked me whether I wanted to
9 meet hers, and I said no.

10 BY MS WANG:

11 Q. Did she say who her lawyer was?

12 A. Well, I can't answer that because
13 I don't know whether she told me at the time or
14 whether I found out later through the Trustee's
15 case. So now I know who she was thinking of, but
16 whether she said it at the time, I don't know.

17 Q. Now you think it was Yair Green?

18 MR COOPERMAN: Objection.

19 THE INTERPRETER: What's his name?

20 MS WANG: Yair Green (Y-A-I-R).

21 THE WITNESS: Yes, that's the name
22 that I saw that I know is associated with the
23 Trustee's complaint. But my cousin didn't tell --
24 if my cousin said it to me, it was only during
25 that conversation because there hasn't been any

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1 other, because I haven't spoken to her since.

2 I was quite angry to discover so late in time what
3 she had to say to me.

4 BY MS WANG:

5 Q. Would it surprise you to learn that
6 your parents had also supported Ayala Nahir's
7 children by buying apartments for them?

8 MR COOPERMAN: Objection.

9 THE WITNESS: Surprises? I'm beyond
10 any more surprises.

11 MS WANG: Well, let's take a break
12 and hopefully you'll have a pleasant surprise
13 because we may not have much more after this.

14 THE VIDEOGRAPHER: Going off the
15 record. The time is 1620.

16 (Off the record - 4:20 p.m.)

17 (On the record - 4:34 p.m.)

18 THE VIDEOGRAPHER: Going back on the
19 record. The time is 1634.

20 MS WANG: Mrs Apfelbaum, the court
21 reporter is going to hand you what's been marked
22 as Exhibit 35. It is a two-paged document bearing
23 the numbers MADTSS01126454 and MADTSS01126455.

24 (Exhibit No. 35 previously marked for
25 identification.)

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1 BY MS WANG:

2 Q. My only question for you on this
3 document is do you recognize the handwriting on
4 it.

5 A. My mother's.

6 MS WANG: I'm done with that
7 exhibit.

8 THE WITNESS: So I don't get to know
9 what's in it?

10 MS WANG: If you want to read it
11 you're welcome to, I just don't have any
12 questions.

13 MR COOPERMAN: Well, we'll read it.

14 BY MS WANG:

15 Q. Did there come a time after the
16 collapse of BLMIS when you applied for tax refunds
17 based on the fact that BLMIS had been operated as
18 a fraud?

19 MR COOPERMAN: I object because
20 that's...

21 BY MS WANG:

22 Q. The question is did there come a
23 time, it doesn't ask for any amounts.

24 A. Yes. Afterwards, yes, I did ask for
25 a tax refund, French tax.

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1 Q. Did you ask for any US tax refunds
2 in connection with the BLMIS fraud?

3 A. So, as regards American tax, I wrote
4 a letter to the gentleman who had handled my case.
5 It wasn't a possibility. I asked and it wasn't a
6 possibility because -- well, you probably know
7 better -- because the regulations that apply in
8 agreements with the IRS cannot operate backwards.
9 And it was past and it couldn't be reopened.

10 Q. When you say you wrote a letter to
11 the gentleman who had handled your case, are you
12 talking about an American lawyer or someone else?

13 A. I don't remember exactly. In any
14 case it was lost. But I think the gentleman of
15 IRS.

16 Q. Oh, you wrote to somebody at the
17 IRS?

18 A. Yeah, the one we'd had the agreement
19 with, but I forget his name.

20 Q. Just so I understand, when you say
21 the one you had the agreement with, that's in
22 connection with your mother's succession account?

23 A. The one about the income tax.

24 MR COOPERMAN: I just want to
25 caution the witness, because I know about this

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1 area and I believe it was done through lawyers.

2 (To the witness) So I caution you,
3 to the extent you've spoken to lawyers
4 representing you, not to divulge what was said.

5 THE WITNESS: Well, I can't remember
6 the details but I know that there was nothing that
7 could be done and that's why I've swept it aside.

8 BY MS WANG:

9 Q. But there was some communication
10 with the IRS regarding whether there could have
11 been refunds on US taxes paid in connection with
12 the BLMIS fraud, is that right?

13 MR COOPERMAN: Objection.

14 THE WITNESS: I believe so. But
15 we talked about it with my husband, but I don't
16 know really.

17 MR COOPERMAN: Ona, I don't believe
18 there was any.

19 BY MS WANG:

20 Q. You never had any -- you never paid
21 US taxes on your own behalf, is that right, in
22 connection with the BLMIS investments?

23 MR COOPERMAN: Objection.

24 MS WANG: Let me just ask the
25 question again.

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1 BY MS WANG:

2 Q. You've never had to pay any US taxes
3 on your own behalf in connection with investments
4 at BLMIS, is that right?

5 MR COOPERMAN: Objection.

6 THE WITNESS: The only thing that
7 I have had to pay with regard to American tax is
8 on the estate of my mother. There's no reason why
9 I should have any other tax from the States since
10 I hold no account there, I have no holdings,
11 belongings, I haven't worked there. So the only
12 one is the estate tax.

13 MR COOPERMAN: She said that
14 yesterday.

15 MS WANG: No, she didn't.

16 MR COOPERMAN: Yes, she did. She
17 testified she paid taxes only for her mother
18 yesterday. Now you're asking the same question
19 again.

20 MS WANG: I'm confirming, because
21 the witness's answer earlier was not clear.

22 MR COOPERMAN: What wasn't clear
23 about saying yesterday that she didn't pay taxes
24 -- only paid taxes on her mother's estate in the
25 US? Was something unclear yesterday you could

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1 have followed up?

2 MS WANG: No, there was an answer
3 that was unclear earlier that I'm cleaning up and
4 now you're just drawing it out.

5 MR COOPERMAN: I'm not.

6 BY MS WANG:

7 Q. Have you had any communications or
8 contacts with other victims of the BLMIS fraud?

9 A. No.

10 Q. Now I'm going to run through a few
11 names and for each name I want to ask if you know
12 the person or have heard of the person in any
13 context, not just in the context of BLMIS.

14 MS WANG: Jon, to try to head off
15 some of your objections, some of these are names
16 that are associated with Magnify, so I'm going
17 through them.

18 MR COOPERMAN: I'm shocked.

19 Just so we can -- I assume you're
20 asking independent of anything she may have read
21 in your complaint, not, obviously, anything I may
22 have told her?

23 MS WANG: Right.

24 THE WITNESS: Yes, that's -- well,
25 there are names that I didn't know before but now

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1 I know them because of the Trustee's case.

2 BY MS WANG:

3 Q. Right, and my questions regarding
4 these names that I'm going to ask you one by one
5 (and we'll take them one by one) is whether
6 you have heard these names in any context before
7 the complaint was filed by the Trustee.

8 The first is Baruch (B-A-R-U-C-H),
9 whether as a first name or as a nickname for
10 somebody?

11 A. Baruch Spinoza.

12 MR COOPERMAN: I was just going to
13 say the same. The philosopher Spinoza's first
14 name was Baruch Spinoza.

15 MS WANG: Okay. Well, that explains
16 a lot, actually.

17 BY MS WANG:

18 Q. What about Itzhak Amir?

19 MR COOPERMAN: Do you want to spell
20 that for her?

21 BY MS WANG:

22 Q. Itzhak Amir, I-T-Z-H-A-K Amir?

23 MR COOPERMAN: Why don't you spell
24 "Amir" for her.

25 BY MS WANG:

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1 Q. Amir, A-M-I-R.

2 A. No.

3 Q. So you never met anyone named
4 Itzhak Amir or heard his name mentioned by either
5 of your parents?

6 A. No.

7 Q. Ruth Amir?

8 A. No.

9 Q. Jacques Amsellem (A-M-S-E-L-L-E-M)?

10 A. No.

11 Q. Does the name sound familiar to you
12 in any way?

13 A. Amsellem? There are plenty of them
14 in France, dentists and such, but...

15 Q. But nobody that you know
16 specifically?

17 A. No.

18 Q. Okay.

19 Henri Atlan (A-T-L-A-N)?

20 A. Yes.

21 Q. Who was he?

22 A. Yes, he's a professor of medicine
23 and a philosopher. He wrote books and he's
24 famous.

25 Q. Did you ever meet him?

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1 A. I came across him at my father's
2 once.

3 Q. Did your father tell you anything
4 about him?

5 A. No. I knew he was a famous man and
6 there's nothing to be said about it.

7 My father had many visitors at a
8 time because he was head of the Review of
9 Philosophy and the "Cahiers Spinoza," the Spinoza
10 notebooks. There were plenty of visitors. And
11 sometimes when I went to visit my parents somebody
12 was there and I didn't make a point of leaving
13 straightaway, so that's what I mean by "coming
14 across" them.

15 Q. But as far as you know
16 Professor Atlan and your father were not engaged
17 in any business dealings -- as far as you know?

18 A. No, I think they talked about
19 philosophy.

20 Q. What about Réjean Michel Cedile
21 (C-E-D-I-L-E)?

22 A. No.

23 Q. Okay.

24 I'm going to mangle the
25 pronunciation of this one, but Hanoch Gottfreund.

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1 First name H-A-N-O-C-H, last name
2 G-O-T-T-F-R-E-U-N-D?

3 A. I think I've read an article by him
4 but I can't remember in what area -- philosophy,
5 history of the Jews, I don't know.

6 Q. What about Emir Hadzic, H-A-D-Z-I-C?
7 MR COOPERMAN: Can you spell the
8 first name?

9 BY MS WANG:

10 Q. First name, Emir E-M-I-R.

11 A. No.

12 Q. What about Harry Rivkin,
13 R-I-V-K-I-N?

14 A. No.

15 Q. What about Saratoga Investments?

16 A. No.

17 Q. Josiane Lancelle, L-A-N-C-E-L-L-E?

18 A. No.

19 Q. Norman F. Levy?

20 A. What's the spelling?

21 Q. Last name L-E-V-Y.

22 A. No. I know plenty of Levys, but not
23 this one.

24 Q. D. Souter, S-O-U-T-E-R?

25 A. No.

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1 Q. Patrick Littaye, L-I-T-T-A-Y-E?

2 A. No.

3 Q. Thierry Magon de Villehuchet?

4 MR QUINT: De "la" Villehuchet.

5 BY MS WANG:

6 Q. Do you want me to spell that for
7 you? Thierry is T-H-I-E-R-R-Y, middle name
8 M-A-G-O-N, de la V-I-L-L-E-H-U-C-H-E-T.

9 A. No.

10 Q. Philippe Junot, J-U-N-O-T?

11 A. No.

12 Q. Guy de la Tour Dupin Verclause --
13 and I'm not going to spell that for anybody!

14 Guy (G-U-Y) de la Tour (T-O-U-R)
15 Dupin (D-U-P-I-N) and then Verclause
16 (V-E-R-C-L-A-U-S-E).

17 A. No.

18 Q. Oh, the answer was no? After all
19 that?

20 A. I don't know anyone with such a chic
21 name.

22 Q. Then these are some names of some
23 investment funds, which I don't know if you've
24 heard of before. Oreades, O-R-E-A-D-E-S?

25 A. No.

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1 Q. Groupement Financier,
2 G-R-O-U-P-E-M-E-N-T Financier?

3 A. No.

4 Q. Lux Alpha, L-U-X A-L-P-H-A?

5 A. No.

6 MS WANG: Let me take like a
7 two-minute break and see if there's anything else,
8 and we may be done.

9 THE VIDEOGRAPHER: Going off the
10 record. The time is 1656.

11 (Off the record - 4:56 p.m.)

12 (On the record - 4:59 p.m.)

13 THE VIDEOGRAPHER: We are back on
14 the record. The time is 1659.

15 MS WANG: We have no further
16 questions. Thank you very much for your time,
17 Madam Apfelbaum.

18 MR COOPERMAN: I don't have any
19 questions.

20 THE VIDEOGRAPHER: This is the end
21 of the deposition of Laurence Apfelbaum, day two.
22 The number of tapes used today are three, the time
23 is 1659. We are now off the record.

24 (The deposition concluded at 4:59 p.m.)

25

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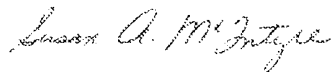
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C E R T I F I C A T E

I do hereby certify that the
testimony of the witness taken in the
above-mentioned matter, contained herein, was
reduced to writing in the presence of the witness
by means of stenography; afterwards transcribed;
and is a true and complete transcript of the
testimony given by the witness.

I further certify that I am not
connected by blood or marriage with any of the
parties; their attorneys or agents; and that I am
not interested, directly or indirectly in the
matter of controversy.

In witness whereof I have hereunto
set my hand at London, England, United Kingdom,
this, the 31st day of March 2014.



SUSAN A. McINTYRE, RPR, CRR, QRR

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S I G N A T U R E

I declare that I have read my within
deposition, and the same is true and accurate,
except for changes and/or corrections, if any, as
indicated by me on the change sheet flypaper page
hereof.

Signed in
on the day of 2014.

LAURENCE APFELBAUM

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**ERRATA SHEET TO THE DEPOSITION OF
LAURENCE APFELBAUM, March 27, 2014**

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Signed:

Date:

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